Charles J. C. Hutson
27th March 1872

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REPORT

Colcock & Hulsen

OF

COMMISSIONERS

ON THE

REVISION AND CONSOLIDATION

OF THE

STATUTE LAWS OF THE STATE.

Adopted Feb 10. 1872 —

COLUMBIA, S. C.:
REPUBLICAN PRINTING COMPANY.
1871.

enough to believe our work perfect, but trust we have made an earnest endeavor, and with some degree of success, to carry out the true intent and purpose of the Legislature.

The statutes of the State have been enacted under such widely different circumstances, referring to such widely different situations, organizations and institutions, covering a period of nearly two hundred years, that they almost defy any harmonious arrangement and consolidation whatsoever. Many fundamental changes have taken place in the State since its first organization, and much legislation, valuable at the time of its adoption, has become, in whole or in part, obsolete. To determine, therefore, what portion of a statute is, and what portion is not, of force, frequently presents questions of the greatest nicety and difficulty. In questions of this class, the Commission has sought to harmonize the older with the newer Acts, by lopping off and trimming the older so as to enable them to stand with the new.

One requirement of the statute, under which the Commission has performed its labors, has not been complied with strictly, viz: "At the same time [when they make their final report], they shall suggest to the General Assembly such contradictions, omissions and imperfections as may appear in the original text, with the mode in which they have reconciled, supplied and amended the same." Our failure to comply with this provision has been occasioned mainly by the fact that the contradictions, omissions, imperfections, etc., have been reconciled in the most simple and obvious manner, and reference to the original statutes are given in the margin, and by a reference to the original statutes, the exact mode in which the contradictions, omissions and imperfections have been dealt with will appear, and quite as plainly as though the Commission had repeated in language what they had done.

We have designated by their titles the statutes which ought to be repealed. The reason for this repeal is, that those statutes, or so much of them as was of force, are included in this compilation, and, upon the adoption of it, as reported by the Commission, they should be repealed as being no longer necessary.

In submitting this final report, the Commission desire to state, as a matter of record, that, during the period intervening between March 9, 1869, and the fourth Tuesday of November, 1869, they were employed in preparing a Code of Procedure, which they submitted to the General Assembly at the regular session in 1869; that, since that time, between the sessions of the General Assembly, they have been engaged upon the work which is now submitted.

We desire to call the attention of the Legislature to the fact that Section 3 of Article V of the Constitution provides for the adoption of a "Penal Code," but the Commission have not felt themselves authorized to enter upon that work under the Statute above quoted. The preparation of a Penal Code was clearly not contemplated by the Legislature in this Act. We have, consequently, only revised, simplified, digested, arranged and consolidated, under appropriate heads, all the Statutes of the State, general and permanent in their nature, in the doing of which

we have comprehended all the criminal as well as civil law of the State; and, it will be seen that it appears throughout the volume. A Penal Code can be prepared now, very much more easily than before this compilation was made, and the Legislature will doubtless direct that it be done, if, in its wisdom, it shall deem advisable.

Some errors have occurred in finally publishing the Report, owing to the rapidity with which it passed through the hands of the printer; but those errors will be found on a page of errata at the close of the work.

Respectfully submitted.

W. J. WHIPPER,
CHARLES W. MONTGOMERY,
D. T. CORBIN,
Commissioners.

COLUMBIA, S. C., November 28, 1871.

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GENERAL STATUTES

OF THE

STATE OF SOUTH CAROLINA.

STATE OF SOUTH CAROLINA.

In the Year One Thousand Eight Hundred and Seventy-one.

AN ACT

FOR

REVISING AND CONSOLIDATING

THE

GENERAL STATUTES

OF THE

STATE.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same:—

PART I.

Of the Internal Administration of the Government.

TITLE I.

OF THE JURISDICTION OF THE STATE—LEGISLATURE—STATUTES—PUBLIC REPORTS AND DOCUMENTS—STATE LIBRARY AND OTHER PUBLIC PROPERTY—VACANT LANDS.

CHAPTER I. *Of the Jurisdiction of the State, and Places Ceded to the United States.*

II. *Of the Legislature.*

III. *Of the Statutes.*

IV. *Of Public Reports and Documents.*

V. *Of the State Library and other Public Property.*

VI. *Of Vacant Lands, and the Granting Thereof.*

CHAPTER I.

Of the Jurisdiction of the State, and Places Ceded to the United States.

SEC.

1. Jurisdiction of the State of South Carolina.
2. Reciprocity as to chartered privileges between Georgia and South Carolina.
3. Places ceded to the United States, and subject to concurrent jurisdiction, viz:
   1. Light-house on Middle Bay Island, in Charleston Harbor.
   2. Seven acres of land on North Island, Georgetown County.
   3. Fort Moultrie, on Sullivan's Island, Charleston County.
   4. Fort Johnson, Charleston County.
   5. Fort Pinckney, Charleston County.
   6. Sand bank on South-east Point of Charleston.
   7. Ten acres on Blythe's Point, Sampit River, in Georgetown County.
   8. Mustard Island, and seven acres on St. Helena Island, Beaufort County.
   9. Five acres in Beaufort, Beaufort County.
   10. Fort Mechanic, Charleston County.
   11. One hundred feet on Haddrell's Point, Charleston County.
   12. One acre on Otter Island, Colleton County; one acre on Station Creek, and one acre on Bob's Island, Beaufort County.
   13. Sites on Sullivan's Island, James's Island, and Shute's Folly Island, Charleston County.
   14. A lot on South Island, Georgetown County.
   15. Five acres in Charleston, for a Custom House.
   16. A site for light-house on Morris Island, Charleston County.
   17. Same on Thomas's Island.
   18. Sites on North and South Island Points, near Georgetown, Georgetown County.
   19. Same on Cape Island, Charleston County.
   20. Site in Charleston, for harbor-light.
   21. Site for beacon, in range with Charleston Light House. Site for day beacon for St. Helena Sound, Beaufort County.
   22. Sites for beacons for Callabogue Sound, Beaufort County.
   23. Sites at North Edisto, Charleston County.

24. Site on Hunting Island, Beaufort County.
25. Site on or near Hilton Head, Beaufort County.
26. Fifty feet on South Battery, Charleston.
27. Site at Mount Pleasant, Charleston County.
28. Site at White Point, Charleston County.
29. Site at Fort Point, Georgetown County.
30. Site of land known as "Charleston Club House," on Meeting street, in Charleston
31. Half an acre in Columbia, corner of Richardson and Laurel streets.

SEC.
4. Land may be purchased by United States for arsenals and magazines
5. If parties cannot agree, land to be valued
6. Concurrent jurisdiction retained by the State.
7. Jurisdiction ceded to the United States over all lands acquired for public purposes. Jurisdiction not to vest until after acquisition of title from owners, and to be concurrent with State jurisdiction.
8. Lands exempt from State taxation.

Jurisdiction of the State of South Carolina.

SECTION 1. That the sovereignty and jurisdiction of this State extends to all places within its bounds, which are hereby declared to be as follows:

North Carolina line.

Survey of 1735.

Survey of 1737.

Survey of 1764.

Survey of 1772, Gov. Swain; I, 403; 1815, I, 420.

The Northern line, beginning at a point on the sea shore, about a mile and a quarter East of the mouth of Little River, runs in a North-west direction, sixty-four and one-half miles, to a point two miles North-west of one of the branches of Little Pee Dee River; thence, in the same direction, twenty-two miles, to a stake in a meadow; thence, in a direction due West, a distance of sixty-two miles, to a point where the said line intersects the Charleston road, (at sixty-one miles,) near the Waxhaw Creek; thence along the line extending from this point to the Tryon Mountain; thence, from a stone set up and marked "S. C. and N. C., September 15th, 1815," running West, four miles and ninety poles, to a stone marked "S. C. and N. C.;" thence South, twenty-five degrees West, one hundred and eighteen poles, to a chestnut on the top of the Ridge dividing the waters of the North Fork of Pacolet River from the waters of the North Fork of the Saluda River; thence along the various courses of the said Ridge, (agreeably to the Plat and Survey of the Commissioners and Surveyors accompanying their report, dated 2d November, 1815,) to the Ridge that divides the Saluda waters from those of Green River; thence along the various courses of the said Ridge, agreeably to the said Plat and Survey, to a stone set up where the said Ridge joins the Ridge which divides the Eastern from the Western waters, and which stone is marked "S. C. and N. C., September 28th, A. D. 1815;" thence along the various courses of the said Ridge, agreeably to the said Plat and Survey, to a stone set up on that part of it which is intersected by the Cherokee boundary line, run in the year 1797, and which stone is marked "S. C. and N. C., 1813;" and from the said last mentioned stone, on the top of the said Ridge, at the point of intersection aforesaid, a direct line, South, sixty-eight and one-fourth degrees West, twenty miles and eleven poles, to the thirty-fifth degree of North latitude, at the Rock in the East bank of Chatooga River, marked "Latitude thirty-five degrees, A. D. 1813;" which line, from the termination of the line of 1772 to the Chatooga River, is, in all, a distance of twenty-four miles and one hundred and eighty-nine poles.

Georgia Line.

Walker's Digest, 75.

Beaufort Convention, P. L., 499; 1787, I, 431.

From the State of Georgia, South Carolina is divided by the Savannah River, from its entrance into the Ocean to the confluence of the Tugaloo and Keowee Rivers; thence by the Tugaloo River to the confluence of the Tugaloo and Chatooga Rivers; thence by the Chatooga River

to the North Carolina line aforesaid, in the thirty-fifth degree of North latitude, the line being low-water mark at the Southern shore of the most Northern stream of said rivers where the middle of the rivers is broken by islands, and middle thread of the stream where the Rivers flow in one stream or volume.

Shultz v. B'nk, U. S. S. C., 1822, MS., per Johnson, J.

Handy *vs.* Anthony, Ohio River Case, U.S.S.C., 5 Wheat., 374.

On the East, the State is bounded by the Atlantic Ocean, from the mouth of the Savannah River to the Northern boundary, near the mouth of Little River, including all the Islands.

Eastern boundary, Atlantic Ocean.

Original Charters S. C., Trott's Laws.

SEC. 2. Any charter or franchise granted, or to be granted, by the State of Georgia, for the purpose of building and establishing bridges or ferries over the Savannah River, shall have full effect within the limits and jurisdiction of the State of South Carolina, to the same extent, in all respects, as if such charter or franchise had been granted by the State of South Carolina: *Provided*, That the State of Georgia do, by law, provide that equal effect be given in the State of Georgia to charters and franchises granted by this State; and that the legal validity and effect of a charter, granted by either of the said States for the purposes aforesaid, shall be subject to this limitation and restriction, that no such charter, from either State, shall prevent the other State from granting a charter for a bridge or ferry over the Savannah River at any place, however near the place, where a bridge or ferry is or may be established, under a charter from the other State.

Reciprocity as to chartered privileges between Georgia and South Carolina.

Proviso.

1851 XII, 119.

SEC. 3. That, in respect to the places within the boundaries ceded by the State to the United States, the jurisdiction of this State is concurrent with that of the United States, according to the terms of cession in each case respectively.

Places ceded to the United States and subject to concurrent jurisdiction, viz:

The places ceded are as follows:

1. The light-house on Middle Bay Island, within the bar of Charleston harbor, bounded, to the North, by a small inlet passing between the said island and Morris Island; to the South, by an inlet called the Folly Inlet; to the East, by the Atlantic Ocean; and to the West, by a Sound or Creek passing between the said Middle Bay Island and the other island aforesaid; together with the lands and tenements thereunto belonging, and together with the jurisdiction of the same, as far as the same shall be incident and essential for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings, and the appointment of officers, and general regulation of the said light-house, forts, magazines, arsenals and dock-yards, in fee simple, in as full, ample and effectual manner as the premises could be granted, aliened, transferred, conveyed and confirmed, by any deed or devise, in due form of law; upon the special proviso and condition, nevertheless, that the said United States shall sufficiently support, maintain and keep in good repair, and rebuild, when necessary, the said light-house, from time to time, and at all times hereafter; and shall also erect, or cause to be erected, proper leading marks to and for, or as appending to, the said light-house, and cause buoys to be stationed in fit places for the further and better facilitating and securing the navigation; and that all expenses which shall

Light-house on Middle Bay Island, in Charleston harbor.

1790, V, 148.

accrue in, for and about the said light-house, or the leading marks and buoys above mentioned, shall be defrayed out of the Treasury of the United States.

Seven acres of land on North Island, Georgetown County.
1757, V, 509.

2. Seven acres of land on North Island, in Georgetown County, butting and bounding to the eastward on the sea, to the West and North by lands belonging to Paul Trapier, and to the South by Winyaw Bay: *Provided, nevertheless,* That nothing contained in this cession shall be construed to exclude or prevent any process, criminal or civil, issuing from any of the courts of this State, from being served or executed within the limits of the said tract of seven acres of land.

Fort Moultrie, on Sullivan's Island, Charleston County.
1805, V, 501, § 1.

3. All the lands reserved for Fort Moultrie, on Sullivan's Island, in Charleston County—provided the same shall not exceed five acres—with all the forts, fortifications and buildings thereon, together with the canal leading from the cove on the back of the fort, nearly up to the same, as delineated on the plan of Charleston harbor by Col. Senf, in the Secretary of State's office at Columbia.

Fort Johnston, Charleston County.
Ib.

4. The high lands and part of the marsh belonging to Fort Johnston, as delineated on the said plan of Charleston harbor—provided the same shall not exceed twenty acres—including the present site of Fort Johnston.

Fort Pinckney, Charleston
Ib.

5. The land on which Fort Pinckney is built, and three acres around the same—Charleston County.

Sand bank, on South-Eastern point of Charleston.
Ib.

6. A portion of the sand bank marked "C," on the South-easternmost point of Charleston, as delineated on the said plan of Charleston harbor, not exceeding two acres.

Ten acres on Blythe's Point, Sampit River, in Georgetown County.
Ib.

7. A lot, not exceeding four acres, for a battery or fort, and necessary buildings, on Dr. Blythe's point of land, at the mouth of Sampit River, Georgetown County, and a quantity of land, not exceeding six acres, on Dr. Blythe's said point of land, at the mouth of Sampit River, adjoining, and in addition to, the said four acres, and for the same purposes.

Mustard Island and seven acres on St. Helena Island, Beaufort County.
1805, V, 501.

8. Mustard Island, opposite Parris' Island, in Beaufort River, and a tract of land on St. Helena Island, opposite the same, not exceeding seven acres—Beaufort County.

Five acres in Beaufort.
1808, V, 576, § 4.

9. Five acres of the public lands, near the town of Beaufort, including the site of Fort Lyttleton, Beaufort County, for the purpose of erecting a fort.

Fort Mechanic, Charleston County.
1813, V, 696, § 1.

10. The lots or tracts of land whereon Fort Mechanic is erected, and such other lots and parcels of land as may be considered necessary to that establishment, so soon as they shall have been conveyed by Christopher Williman and William Holmes to the United States, for all purposes necessary to the maintenance of a military post: *Provided, however,* That nothing in this cession shall be construed to prevent any process, civil or criminal, issuing from any of the Courts of this State, or any other competent authority, from being served or executed within the limits of the said lots or tracts of land so to be conveyed by the said Christopher Williman and William Holmes to the United States: *And provided, also,* That nothing contained in this ces-

sion shall be so construed as to impair the rights and privileges vested in the City Council of Charleston, under their charter of incorporation, who are hereby also authorized and empowered to relinquish their right of jurisdiction in and over the land aforesaid.

One hundred feet on Haddrell's Point, Charleston County.
1823, VI, 220.

11. One hundred feet square of land, on Haddrell's Point, Charleston County, (conveyed by Mrs. Rebecca Bee Barksdale, for the use of the United States, for the purpose of erecting a beacon thereon: *Provided, nevertheless*, That nothing contained herein shall be construed to exclude or prevent any process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of the said cession.

One acre on Otter Island, in Colleton County; one acre on Station Creek, and one acre on Bob's Island, in Beaufort County.
1857, VI, 539.

12. One acre of land on Otter Island, in Colleton County, for a light-house; one acre of land on the North side of Station Creek, near St. Helena Island, in Beaufort County, for the erection of a beacon-light; and one acre of land on Bob's Island, at the entrance of Scull Creek, in Beaufort County, for the erection of a beacon-light: *Provided*, That the said lands, when purchased by, or vested in, the United States, and every person or officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the Government of this State, and the jurisdiction, laws and authority thereof, in the same manner as if this cession had never been made; and that the United States shall exercise no more authority or power, within the limits of the said land, than they might have done previously to the cession thereof, or than may be necessary for the building, erection, repairing or internal government of the said light-house, and the regulation and management of the said light-house, and the said beacon-lights, that may be built and erected on the said lands, and of the officers and persons by them to be employed in and about the same.

That the said lands shall be forever exempt from any taxes to be paid to this State.

Sites on Sullivan's Island, James' Island and Shute's Folly Island, in Charleston County.
1846, XI, 39; 1848, XI, 514, §2.

13. The lands, forts, fortifications and sites for the erection of forts on Sullivan's Island, James' Island and Shute's Folly Island, in Charleston County, as delineated in a plan of survey, made by Robert Q. Pinckney, on the 17th November, 1846, under direction of commissioners appointed under Resolution of 1845, which lands, sites, forts and fortifications so ceded shall be exempt from any tax to be paid to this State: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall, and may be, served and executed on any part of the lands and sites, forts and fortifications so ceded, and on any person or persons there being and implicated in matters of law: *And provided, also*, That nothing herein contained shall be construed to interfere with the rights and property of the citizens, or so as to affect any of the streets, thoroughfares or public landings on the said islands.

A lot on South Island, in Georgetown County.
1847, XI, 442.

14. A lot on South Island, in Georgetown County, on the Southern edge of Winyaw Entrance, for a light-house, which lot shall, during the continuance of the said light-house, be exempt from any taxes to be paid to this State: *Provided*, That the said lot, when purchased or

vested in the United States, and every person and officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the Government of this State, and the jurisdiction, laws and authority thereof, in the same manner as if this cession had never been made; and that the United States shall exercise no more authority or power, within the limits of the said land, than they might have done previously to the cession thereof, or than may be necessary for the building, erection, repairing or internal government of the said light-house, and of the officers and persons by them to be employed in and about the same.

Five acres in Charleston for a Custom House.
1848, XI, 514.

15. A lot, not to exceed five acres, in the city of Charleston, for the erection of a custom house; which lot, and the buildings erected thereon, shall be exempt from any tax to be paid to this State: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of said land, and on any person or persons there being and implicated in matters of law.

A site for light-house, Morris Island.
1853, XII, 295.

16. A site on Morris Island, for a beacon or light-house—Charleston County.

Site on Thomas' Island.
Ib.

17. A site on Thomas' Island, for a beacon or light-house,———— County.

Site on North and South Islands.
Ib.

18. Sites for three beacons, to be placed on or near North and South Island Points, in the vicinity of Georgetown—Georgetown County.

Site on Cape Island.
Ib.

19. A site on Cape Island, on some point in the immediate vicinity of the present light-house, on Cape Romain, for a light-house—Charleston County.

Site in Charleston for harbor-light.
Ib.

20. A site on the East Battery, in the city of Charleston, for a beacon or harbor light.

None of the sites ceded in sub-divisions 16 to 20, inclusive, to exceed ten acres in any one case; nor shall such sites be used for any other purpose than the purposes specified; and nothing shall exclude or prevent process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of said cessions.

Site for beacon in range with Charleston light-house, &c.
1854, XII, 315.

21. A site for beacon to range with Charleston light-house. A site for a day beacon for St. Helena Sound, Beaufort County.

Sites for beacons.
Ib., 316.

22. Two sites for two beacons, to serve as a range for Callabogue Sound, Beaufort County.

Site at North Edisto.
Ib.

23. A site for a light-house and beacon-light on the main land, at North Edisto, Charleston County.

Site on Hunting Island.
Ib.

24. A site for a light-house and beacon-light on the North Point of Hunting Island, Beaufort County.

Site near Hilton Head.
Ib.; 1855, XII, 52[illegible].

25. A site for a light-house and beacon-light, on or near Hilton Head, Beaufort County.

None of the sites ceded in sub-divisions 21 to 25, inclusive, to exceed fifty acres in any one case; the said sites shall be forever exempt from

any taxes to be paid to this State, and the same restrictions shall attach thereto as attach to the cession of a lot on South Island, by the proviso in sub-division 14 of this Section. The cession of said sites shall not be construed to authorize their use for any other purpose than the purposes specified, nor to exclude or prevent any process, civil or criminal, issuing from the Courts of this State, from being served or executed within the limits of the same.

26. A site, restricted to fifty feet square, on South Battery, in the city of Charleston, for a beacon or harbor-light, which shall be forever exempt from any taxes to be paid to this State; and shall be subject to the same restrictions as attach to the cession of a lot on South Island, by the proviso in sub-division 14 of this Section.

Fifty feet on South Battery, Charleston. 1854, XII, 315.

27. A site for a light-house, in or near Mount Pleasant, Charleston harbor, not exceeding one acre.

Site at Mt. Pleasant. 1856, XII, 591.

28. A site for a beacon-light at White Point, in the city of Charleston, to be designated by the City Council of Charleston.

Site at White Point. Ib.

29. A site for a light-house on Fort Point, near Georgetown, not exceeding twenty acres—Georgetown County.

Site at Fort Point. Ib.

30. A lot of land for a court house and offices connected therewith, for the use of the United States Courts, or for any other purposes to which the Government of the United States may think proper to apply it, viz: All that lot, piece or parcel of land, with the buildings thereon, known as "The Charleston Club House," situate, lying and being on the West side of Meeting street, in the city of Charleston, measuring and containing in front, on Meeting street, fifty-eight feet, more or less, by about two hundred and thirty-six feet in depth, more or less; bounding, North, on lands now or late of Wm. P. Greenland; to the East, on Meeting street; to the South, on lands of M. C. Mordecai; and, to the West, on lands of the French Protestant Church: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being and implicated in any matter of law: *And provided, always*, That the said lot of land, and all the buildings and structures of every kind already thereon erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County of Charleston, and the corporation of the city of Charleston, and of the aforesaid State.

Lot of land known as the "Charleston Club House," in Meeting-st, Charleston. 1870, XIV, 312, § 1.

31. A lot of land, for a post office and court house, and offices connected therewith, for the use of the United States, or for any other purpose to which the Government of the United States may think proper to apply it, viz: All that lot, piece or parcel of land in the city of Columbia, situate, lying and being on the corner of the streets known as Richardson street and Laurel street, measuring one hundred and four feet, more or less, on Richardson street, and two hundred and eight feet, more or less, on Laurel street, and containing one-half an acre, more or less; bounded, on the North, by Laurel street; on the East, by Richardson street; on the

Half an acre in Columbia, corner Richardson and Laurel sts. 1870, XIV, 326, § 1.

South, by lot formerly belonging to Charles Beck, and now held by Hugh Weir; and, on the West, by lot formerly held by Robert N. Lewis, and, by his last will and testament, devised to Daniel B. Lewis, executor of said last will and testament of the said Robert N. Lewis: *Provided*, That all process, civil or criminal, issued under the authority of this State, or any officer thereof, shall and may be served and executed on any part of the said premises, and on any person or persons there being and implicated in any matter of law: *And provided, always*, That the said lot of land, and all the buildings and structures, of every kind, already thereon erected, or that may hereafter be erected thereon, shall be absolutely and forever exempt from all taxes of the County of Richland, and the corporation of the city of Columbia, and of the aforesaid State.

Land may be purchased by the U. S. for arsenals and magazines.

1795, V, 260, § 1.

SEC. 4. That the United States, or such person or persons as may be by them authorized, shall have a right to purchase, in any part of this State that may be thought most eligible, the fee simple of any quantity of land, not exceeding two thousand acres, for the purpose of erecting arsenals and magazines thereon.

If parties cannot agree, land to be valued

Ib., § 2.

SEC. 5. That if the person or persons whose land may be chosen for the above mentioned purpose, should not be disposed to sell the same, or if the persons appointed to make the purchase should not be able to agree upon terms with such owner or owners of the said land, the same shall be valued, upon oath, by a majority of persons to be appointed by the Court of Common Pleas of the County where such land is situated for that purpose; and the land shall be vested in the United States, upon their paying the amount of such valuation to the owner or owners of such land.

Concurrent jurisdiction retained by the State.

Ib., § 3.

SEC. 6. That the said land, when purchased, and every person and officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the government of this State, and the jurisdiction, laws and authority thereof; and that the United States shall exercise no more authority or power, within the limits of the said land, than they might have done before acquiring the same, or than may be necessary for the building, repairing, or internal government of the arsenals and magazines thereon to be erected, and the regulation and management of the same, and of the officers and persons by them to be employed in or about the same: *Provided, always*, That the said land shall for ever be exempt from any taxes to be paid to this State.

Jurisdiction ceded to U. S.

Jurisdiction not to vest until after acquisition of title, and to be concurrent with State jurisdiction.

1871, XIV, 335, § 1.

SEC. 7. That the jurisdiction of the State of South Carolina is hereby ceded to the United States of America over so much land as shall be necessary for the public purposes of the United States: *Provided*, That the jurisdiction hereby ceded shall not vest until the United States of America shall have acquired the title to the lands, by grant or deed, from the owner or owners thereof, and the evidences thereof shall have been recorded in the office, where, by law, the title to such land is recorded; and the United States of America are to retain such jurisdiction so long

as such lands shall be used for the purposes in this Section mentioned, and no longer; and such jurisdiction is granted upon the express condition that the State of South Carolina shall retain a concurrent jurisdiction with the United States in and over the said lands, so far as that civil process, in all cases not affecting the real or personal property of the United States, and such criminal or other process as shall issue, under the authority of the State of South Carolina, against any person or persons charged with crimes or misdemeanors committed within or without the limits of the said lands, may be executed therein, in the same way and manner as if no jurisdiction had been hereby ceded.

Lands exempt from State taxation. Ib., 536, § 2.

SEC. 8. That all the lands and tenements which may be granted, as aforesaid, to the United States, shall be and continue, so long as the same shall be used for the purposes in the last Section mentioned, exonerated and discharged from all taxes, assessments and other charges which may be imposed under the authority of the State of South Carolina.

CHAPTER II.

OF THE LEGISLATURE.

SEC.
1. Clerks of both Houses to furnish pay certificates to members.
2. Pay certificates of members, by whom to be signed.
3. Pay certificates of subordinates; proviso.
4. Treasurer to pay members and subordinates out of any moneys not otherwise appropriated.
5. Per diem and mileage of members.
6. Per diem of Lieutenant-Governor.
7. Pay of Engrossing Clerks.

Clerks of both Houses to furnish pay certificates to members. 1869, XIV, 310, § 2.

SECTION 1. That the Clerks of the Senate and House of Representatives are authorized and directed to furnish to each member of their respective bodies, a pay certificate for the amount of his mileage and per diem, to include such dates as the General Assembly shall, by concurrent resolution, direct.

Pay certificates of members, by whom to be signed. Ib, § 3.

SEC. 2. That such certificates shall conform to the provisions of Section 23, Article II, of the Constitution of the State, and shall be certified by the President of the Senate, and attested by the Clerk of the Senate, for all members of that body, and by the Speaker of the House of Representatives, and by the Clerk of the same, for all members of that body.

Pay certificates of subordinates. Ib., § 4.

SEC. 3. That the subordinate officers and employees of the General Assembly shall, in like manner, be furnished with certificates of pay in such amounts as shall be fixed by that branch of the General Assembly to which such officers and employees shall respectively belong: *Provided, however*, That the pay certificates for services common to the two Houses shall be signed by the President of the Senate, and countersigned by the Speaker of the House of Representatives.

Proviso.

Treasurer to pay members and subordinates, &c.

Ib., 331, § 5; 18. C. Rep., 16.

SEC. 4. That the Treasurer of this State is hereby authorized and directed to pay said certificates out of any funds in the Treasury not otherwise disposed of, and to hold the certificates as his vouchers therefor.

Per diem & mileage of members.

Constitution, Art 2, § 23; 1870, XIV, 404.

SEC. 5. Each member of the General Assembly shall receive six dollars per diem while in session; and the further sum of twenty cents for every mile of the ordinary route of travel in going to and returning from the place where such session is held.

Per diem of Lieutenant-Governor.

1868, XIV, 135, § 1.

SEC. 6. The Lieutenant-Governor, while presiding over the Senate, shall receive a per diem of ten dollars.

Pay of Engrossing Clerks

1868, XIV, 135, § 1

SEC. 7. Engrossing Clerks shall receive the same per diem as members of the General Assembly.

CHAPTER III.

OF THE STATUTES.

SEC.
1. Clerk of Senate and of House of Representatives to contract for publication of laws in newspapers; contract to be approved by General Assembly.
2. To provide for binding of Laws, Journals, &c.
3. To deliver permanent work to State Librarian, who shall distribute to persons entitled by law to receive copies.
4. State Treasurer to pay accounts for such work; proviso.
5. How Acts and Resolutions shall be distributed.

Clerk of Senate and House of Representatives to contract for publication of laws in newspapers.

1871, XIV, 532, § 1.

SECTION 1. That the Clerk of the Senate and the Clerk of the House of Representatives are authorized to provide, by contract, for the publication, in such newspapers of the State as may by them be deemed necessary, of the Acts and Joint Resolutions of the General Assembly; and they are further authorized to provide, by contract, for the permanent and current printing of the General Assembly: *Provided*, That said contract be approved by the Senate and House of Representatives.

To provide for binding of Laws, Journals, &c

Ib., § 2.

SEC. 2. That a sufficient number of the Journals, Reports and Acts of the General Assembly, for the use of the members of the General Assembly, and for the State Librarian to make the exchanges with other States, be bound in a good and substantial manner; and that the Clerk of the Senate and the Clerk of the House of Representatives are authorized to have the same done immediately upon the close of the session, or as soon thereafter as practicable.

SEC. 3. That, on the completion of the permanent work, they shall deliver the same to the State Librarian, who shall forward, by mail or otherwise, as he may deem expedient, a copy thereof to each of the members of the General Assembly, and a copy of the Acts and Joint Resolutions to the different States, institutions and officers entitled by law to receive the same.

To deliver permanent work to State Librarian, who shall distribute to persons entitled by law to receive copies.

Ib., § 3, amended.

SEC. 4. That the State Treasurer is authorized and directed to pay all accounts for said work, out of any moneys in the Treasury not otherwise appropriated: *Provided*, The Clerks of the respective Houses shall first certify that said accounts are just and correct in all respects, and that the work has been performed in pursuance of contract; and that the amount mentioned in said accounts is due, and remains unpaid.

State Treasurer to pay accounts for such work.

Ib., § 4.

Proviso.

SEC. 5. Copies of the Acts and Joint Resolutions shall be distributed as follows:

How Acts and Resolutions shall be distributed.

Appendix, Vol. 6, p. 648.

1. To the Legislative Council of the Province of Quebec, Canada, one copy.
2. To each Clerk of Court in the State, one copy.
3. To each Judge of Probate, one copy.
4. To the Supreme Court at Columbia, one copy.
5. To each Trial Justice in the State, one copy.
6. To the Library of the Legislature, one hundred and fifty copies.
7. To the University of South Carolina, two copies.
8. To the Charleston Library, two copies.
9. To the Governor of each State of the Union, for the use of the State, one copy.
10. To the Legislature of each State, one copy.
11. To the Library of Congress, two copies.
12. To heads of departments at Washington, for the use of their departments, one copy.
13. To the Historical Society of New York, one copy.
14. To the Athenæum, Philadelphia, one copy.
15. To the Library of Harvard University, Cambridge, one copy.
16. To the Yale College Library, one copy.
17. To the Libraries of the University of Virginia and Alabama, one copy each.
18. To the College at Athens, Ga., Princeton and Chapel Hill, N. C., one copy.
19. To the Athenæum, Boston, one copy.
20. To the Committee of Public Records, London, one copy.
21. To the London Museum, one copy.
22. To the King's Library, in Paris, one copy.
23. To the University Library at Heidelberg, one copy.
24. To the Royal Library at Berlin, one copy.
25. To the University Library at Gottengen, one copy.

CHAPTER IV.

Of Public Reports and Documents.

SEC.
1. Persons having the distribution of the public money must report annually to Comptroller General.
2. Public officers having evidences of indebtedness to the State must report to the Comptroller General.
3. Comptroller General to make report to General Assembly of all debts due the State.
4. Secretary of State to report to General Assembly all corporations formed under general corporation Act.
5. Annual report of State Superintendent of Education; what it shall contain.
6. State Superintendent to consolidate reports of County Commissioners, and forward them to General Assembly.
7. Annual report of Directors of the State Penitentiary.
8. Annual report of Attorney-General.
9. Annual report of Regents of the Lunatic Asylum.
10. Commissioners of the Deaf and Dumb and the Blind to report annually.
11. Accounts of Treasurer to be examined in November and December, annually, by Joint Committee of Senate and House.
12. Duties of Committee, and report.
13. Trustees of State Orphan Asylum to make annual report.
14. Report of Commissioner of Bureau of Agricultural Statistics.
15. Commissioner to report census to Governor and General Assembly.
16. Land Commissioner to make annual report.
17. Financial Agent of State, in New York, to make quarterly report to Comptroller General.
18. Commissioners of Sinking Fund to make annual report.
19. Trustees of estate of Dr. John De La Howe to report annually.
20. County Commissioners to report in detail annually; penalty.
21. Health officers to keep records, and report monthly.

To render an account annually.
1834, VI, 512, §4

SECTION 1. All persons having the distribution of public money shall annually, on the last day of October in each and every year, render to the Comptroller General an account setting forth the funds committed to them, respectively, and the disbursement of them.

Public officers having evidences of indebtedness to the State must report to Comptroller General.
1818, VI, 108, § 11

SEC. 2. All public officers having in their possession the evidence of any debt due to the State shall, on the last day of October in every year, furnish the Comptroller General with a statement of all debts due to the State in their possession, showing the names of the debtors, the amounts of the debts, the interest, the payments made, and the balance due to the State. And in case of failure on the part of any public officer to furnish the Comptroller with the statement aforesaid, he shall forfeit and pay the sum of two hundred dollars, to be recovered in any Court having competent jurisdiction.

Comptroller General to make report to General Assembly of all debts due the State.
Ib.

SEC. 3. And the Comptroller General shall make a statement of all debts due the State, and lay it before the General Assembly with his annual report.

Secretary of State to report to General Assembly all corporations formed under general corporation Act.
1869, XIV, 390, § 38.

SEC. 4. The Secretary of State shall annually prepare, cause to be printed, and, on the fourth Tuesday in November, submit to the General Assembly, a true abstract from the certificates deposited with him by corporations formed under the law regulating the formation of corporations.

Annual report of State Superintendent of Education.
1870, XIV, 342, § 5

SEC. 5. That the State Superintendent of Education shall make a report, through the Governor, to the General Assembly, at each regular session thereof, showing:

1st. The number of persons between the ages of six (6) and sixteen

(16) years, inclusive, residing in the State on the first day of the last preceding October.

What it shall contain.

2d. The number of such persons in each County.

3d. The number of each sex.

4th. The number of white.

5th. The number of colored.

6th. The whole number of persons that attended the free common schools of the State during the year ending the thirtieth day of the last preceding September, and the number in each County that attended during the same period.

7th. The number of whites of each sex that attended, and the number of colored of each sex that attended the said schools.

8th. The number of common schools in the State.

9th. The number of pupils that studied each of the branches taught.

10th. The average wages paid to teachers of each sex.

11th. The number of school houses erected during the year, and the location, material and cost thereof.

12th. The number previously erected, the material of their construction, their condition and value, and the number with their grounds enclosed.

13th. The Counties in which teachers' institutes were held, and the number that attended the institutes in each County.

14th. Such other statistical information as he may deem important, together with such plans as he may have matured, and the State Board of Education may have recommended for the management and improvement of the school fund, and for the more perfect organization and efficiency of the common schools.

15th. A statement of his official visits during the year.

State Superintendent to consolidate reports of County Commissioners & forward them to General Assembly.

1868, XIV, 23, § 6.

SEC. 6. That it shall be the duty of the State Superintendent of Education to consolidate the reports received from the County School Commissioners, and to forward them to the General Assembly at its next regular session.

Directors of Penitentiary to make report to be laid before General Assembly.

1868, XIV, 95, § 13, Sub. 9.

SEC. 7. The Directors of the State Penitentiary shall make an annual report to the Governor, on or before the first day of November in each year, of the state and condition of the prison, the convicts confined therein, of the money expended and received, and, generally, of all the proceedings during the last year, to be laid before the General Assembly.

Annual report of Attorney General.

1868, XIV, 89, § 8.

SEC. 8. The Attorney General shall, annually, make a report to the General Assembly of the cases argued, tried or conducted by him in the Supreme Court and Circuit Courts during the preceding year, with such other information in relation to the criminal laws, and such observation and statements as, in his opinion, the criminal jurisdiction and the proper and economical administration of the criminal law warrant and require.

Annual report of Regents of Lunatic Asylum.
1827, VI, 325, § 4.

SEC. 9. That it shall be the duty of the Regents of the Lunatic Asylum to report annually to the Legislature the state and condition of the institution, fully and particularly; and they shall also annually report to the Comptroller General the amount of income of said institution, and the amount of expenditures, and the items thereof.

Comm'rs of the Deaf and Dumb and the Blind to report annually to the Legislature.
1841, VI, 574, § 1; 1871, XIV, 66, § 1.

SEC. 10. That the Commissioners of the Deaf and Dumb and the Blind shall annually report to the Legislature an exact statement of their various proceedings during the past year, shewing precisely how they disbursed the money expended, the names of the persons who have received the bounty, the ages and places of residence of such persons, and information as to their progress; which statement shall be accompanied by the vouchers of all sums expended.

Accounts of Treasurer to be examined in November and December, annually, by Joint Committee of Senate and House.
1868, XIV, 16, § 5.

SEC. 11. The accounts of the Treasurer of the State shall be, annually, closed on the thirtieth day of October, and shall be examined during the months of November and December, in each year, by a Joint Committee, consisting of one member of the Senate and two of the House of Representatives, to be appointed by a concurrent resolution of the two Houses of the General Assembly, at the session previous to said time of examination in each year.

Duties of Committee—report.
Id. § 6.

SEC. 12. Such Committee shall examine the accounts, the vouchers relating to all moneys received into and paid out of the Treasury during the year ending on the thirtieth of October preceding such examination, and shall certify and report to the General Assembly, at its next session after the said thirtieth day of October, the amount of moneys received into the Treasury during such year; the amount of moneys paid out of it during the same period, by virtue of warrants drawn on the Treasury by the Comptroller General, or any other officer; the amount of moneys received by the Treasurer who shall then be in office at the time of such examination, when he entered upon the execution of the duties of his office; and the balance in the Treasury on the thirtieth day of September preceding such examination.

Trustees of State Orphan Asylum to make annual report.
1869, XIV, 171, § 7.

SEC. 13. The Trustees of the State Orphan Asylum shall, on or before the fourth Tuesday of November in each year, report to the General Assembly, through the Governor, a detailed statement of all their doings, including the expenditure of moneys, the number, age and sex of the children, the number of admissions and deaths during the year, the number of children who have left the Asylum, and the place to which they have gone, and such other information as it may be in their power to give.

Report of Commissioner of Bureau of Agricultural Statistics.
1868, XIV, 139, § 7.

SEC. 14. That the Commissioner of the Bureau of Agricultural Statistics shall make a report of his proceedings, and a special report on railroads and telegraphs, to the Governor of the State, annually, or as often as he may require.

SEC. 15. When the census takers shall have made returns, the Commissioner shall forthwith report the results of such registration to the Governor of the State for the time being, and shall make a collated return of the statistics to the General Assembly, at its next regular session.

Commr to report census to Governor and General Assembly.
1869, XIV, 230, § 7.

SEC. 16. That the Land Commissioner shall annually make a detailed report of the transactions of his office to the General Assembly.

Land Commissioner to make annual report.
1869, XIV, 276, § 8.

SEC. 17. That the Financial Agent of the State of South Carolina, in the city of New York, is directed to make and forward to the Comptroller General of the State a report of his transactions, quarterly, which report the Comptroller General is hereby directed to include with his annual report to the General Assembly.

Financial Agent of state in New York to make quarterly report to Comptroller General.
1869, XIV, 255, § 3.

SEC. 18. The Commissioners of the Sinking Fund shall annually report to the General Assembly the condition of the Sinking Fund, and all sales or other transactions connected therewith.

Commissioners of Sinking Fund to make annual report
1870, XIV, 388, § 3.

SEC. 19. It shall be the duty of the Board of Trustees of the estate of Dr. John De La Howe to cause to be kept a regular record of all their proceedings, and annually to transmit to the Legislature a faithful transcript from the said record, for the year preceding, accompanied by a copy of the last return made by them to the Judge of Probate, and by an exhibit, showing the precise situation of the estate on the first Monday in February and the first Monday in November next preceding.

Trustees of Estate of Dr. John De La Howe to report annually to Legislature
1870, VI, 397, § 7.

SEC. 20. That the County Commissioners of each County shall, on or before the fifteenth of December, in each year, report to the General Assembly all accounts chargeable to their respective Counties; what have been allowed and settled; the number and amount of orders drawn upon the County Treasurer; the taxes levied and collected; the amount expended for rebuilding or repairing Court House, Jail, Poor House and Bridges; in fact, a detailed account of all their doings, as required by law. And, upon failure so to report, they shall be fined in a sum not less than fifty, nor more than two hundred dollars.

County Commissioners to report to Legislature, in detail, annually; penalty.
1871, XIV, 607.

SEC. 21. The Health Officers at Georgetown, Charleston and Hilton Head shall keep a faithful record of all their doings required by law, and report the same to the Governor, at the end of each month.

Health officers to keep records, and report monthly.
1868, XIV, 117, § 29.

CHAPTER V.

Of the State Library and other Public Property.

SEC.
1. Annual appropriation for Public Library.
2. Commissioners of Sinking Fund established.
3. Duties of Commissioners.
4. Comptroller General to insure College Buildings at Columbia.
5 Attorney General to prosecute persons who intrude upon property of State.

Annual appropriation for Public Library.
1814, V, 724, §1.

SECTION 1. That the sum of five hundred dollars be annually appropriated for the purchase of a library for the use of the members of the Senate and House of Representatives of this State.

Commissioners of Sinking Fund established.
1870, XIV, 388, § 1.

SEC. 2. For the purpose of paying the present indebtedness of the State, and the interest thereon, and such further indebtedness as may hereafter be contracted by the State, the Governor, the Comptroller-General and the Attorney General of the State, the Chairman of the Finance Committee of the Senate, and the Chairman of the Committee of Ways and Means of the House of Representatives, are hereby constituted Commissioners, to be known and designated as "The Commissioners of the Sinking Fund," to receive and manage the incomes and revenues hereafter set apart and applied to the Sinking Fund of the State.

Duties of Commis'rs of Sinking Fund
Ib., § 2.

SEC. 3. And it shall be the duty of said Commissioners to sell and convey, for and on behalf of the State, all such real or personal property, assets and effects belonging to the State as is not in actual public use, said sales to be made from time to time, in such manner, and upon such terms, as they may deem most advantageous to the State. The proceeds of all such sales shall be set aside, and awarded to the Sinking Fund of the State. This Act shall not be construed to authorize the sale by the Commissioners of any property held in trust for a specific purpose by the State, or the property of the State in the phosphate rocks, or phosphatic deposits in the beds of the navigable streams and waters of the State.

Comptroller General to insure college buildings at Columbia.
1889, VI, 159, § 15.

SEC. 4. That the Comptroller General shall be, and he is hereby, authorized and required, annually, to insure against fire the college buildings at Columbia.

Attorney General to prosecute persons who intrude upon property of State
1888, XIV, 88, § 3.

SEC. 5. The Attorney General may, when, in his judgment, the interest of the State requires it, file and prosecute informations or other process against persons who intrude upon the lands, rights or property of the State, or commit or erect any nuisance thereon.

CHAPTER VI.

Of Vacant Lands, and the Granting Thereof.

SEC.

Sullivan's Island.

1. Citizens of the State may build on Sullivan's Island; allowed half acre of land; to pay one penny annual rent.
2. Owners of lots yearly tenants; to give up same when demanded by Governor; may remove buildings. Titles assignable as estates for years.
3. No right obtainable, except by building dwelling house. Lot vacant, if not built on within a year.
4. Manner of building regulated; buildings, how removed.

Of Certain Lands in Charleston and Beaufort.

5. Vacant land in Charleston harbor covered by water vested in said city.
6. Land in front of certain streets in Beaufort vested in said town.
7. Wharves only to be built on lots opposite such streets.

Granting of Vacant Lands.

8. Granted to citizens paying fees of office.
9. Clerks of Courts to be Commissioners of Locations; their duties.
10. Secretary of State to make plats of land surveyed, and keep record of plats and grants; grants to be signed by Governor.
11. Judges to decide in cases of fraud and collusion, and certify decision to Governor.
12. Deputy surveyors to be appointed, not exceeding six in each County.

SEC.

13. To take oath; to locate warrants, and return plats within three months.
14. To swear chain-bearers.
15. Laying off lands on navigable streams.
16. Deputy surveyors not following instructions to be prosecuted.
17. Grant of surveyed lands to be obtained in six months.
18. Grants not to be delivered until purchase money is paid.
19. Concerning land over-measured in former grants.
20. Secretary of State, Commissioners of Locations, &c., not allowed to take up elapsed grants; penalties.
21. Grants for Sullivan's Island, &c., void.

Deputy Surveyors' Instructions.

22. Rules for Deputy surveyors—1. To have warrant. 2. Measuring lines; to insert runs, roads, swamps, &c., in survey. 3. Making out plats. 4. These instructions to govern: of warrants. 5. Elapsed grants. 6. Not to encompass lands before surveyed. 7. Re-surveying granted lands; how to act in case of dissent among parties: variation of lines. 8. Survey where lines are obliterated. 9. Survey for new grant. 10. Not to survey lands reserved to public. &c. 11. Running lines. 12. Locating lands. 13. Instruments. 14. Chain. 15. Plotting. 16. Conduct. 17. Scale of plat. 18. One station to each line.

Fees for Surveying and Granting Lands.

23. Fees: Of Secretary of State; Deputy Surveyors; Commissioners of Locations.

Sullivan's Island.

SEC. 1. That such of the citizens of this State as may think it beneficial to their health to reside on Sullivan's Island during the summer season, have liberty to build on the said island a dwelling and out houses for their accommodation; and the person or persons so building shall have the exclusive right to the same, and one-half acre of land adjoining thereto, as long as he, she or they may require, for the purposes aforesaid: *Provided*, The person or persons building, as aforesaid, pay to the Treasurer one penny annually, if required, for the use of the said land.

Citizens of the State may build on Sullivan's Island.

Allowed half acre of land.

To pay one penny annual rent.

Joint Resolution, 1791, 84.

SEC. 2. That the present owners of lots on Sullivan's Island, whereon dwelling houses have been erected, and such citizens of this State as may hereafter build dwelling houses upon the said island, under the license granted by the preceding Section, shall be taken and deemed to have, and shall enjoy the same rights, titles and interests, as tenants from year to year, in and to the lots now owned by them, respectively; upon condition, nevertheless, that they shall deliver up the same when demanded by the Governor of this State for the time being—he, she or they having the liberty of removing the buildings which are now, or may hereafter

Owners of lots yearly tenants.

To give up same when demanded by Governor.

May remove buildings.

Titles assignable as estates for years.

1857, XII, 609.
12 Rich., 564.

be, erected on said lots. And the titles thereto shall be assignable, transferable, transmissible and distributable, as estates for years now are, or hereafter may be, by the laws of this State; and the said owners shall have, take and enjoy, and be entitled to use and employ all actions, suits and remedies, for securing their quiet and peaceable possession and enjoyment of their said lots, and restitution and redress for any trespass, ouster or injury, which they may suffer, or may be committed upon them, as tenants for years now have, or are entitled to.

No right obtainable except by building dwelling house
Lot vacant if not built on within a year.
1819, VI, 131, § 4.

SEC. 3. That no exclusive right to a lot on the said island shall be obtained by any citizen otherwise than by his actually building a dwelling house thereon; and if such dwelling house shall be removed or destroyed, the owner thereof shall have the exclusive right to rebuild on the same lot for one year thereafter; and if no dwelling house be built by him within that period, such lot shall again be considered as vacant.

Manner of building regulated.
Buildings, how removed
1827, VII, 353, § 6.

SEC. 4. That hereafter no person shall erect, or cause to be erected, more than one dwelling house on each half acre lot in the town of Moultrieville, on Sullivan's Island; and if any person shall build, or attempt to build, such a dwelling house, such person may be compelled to desist from such building, and to remove the same, by the Court of Common Pleas; and it shall be lawful for the Intendant or any one of the Wardens of the said town, to execute such order, under the direction of the Sheriff of the County or his lawful Deputy.

Of Certain Lands in Charleston and Beaufort.

Vacant land in Charleston harbor, covered by water, vested in said city.
1836, VII, 151, § 4.

SEC. 5. That all vacant land, not legally vested in individuals, in the harbor of Charleston, covered by water, be, and the same is hereby, vested in the city of Charleston, for public purposes, but not to be so used or disposed of as to obstruct or injure the navigation of said harbor.

Land in front of certain streets in Beaufort vested in said town.
1798, V, 335, § 1.

SEC. 6. That all the land lying directly and immediately in front of the streets, in the town of Beaufort, which run Northwardly and Southwardly, and which extend to Bay street, down to the channel of the river lying in front of the said town, whether the same be covered with the waters of the said river or not, shall, forever hereafter, be considered as the property of, and belonging to, the said town, and shall never be granted by any Governor of this State, or be otherwise vested in any individual or individuals, or any body corporate, unless it be by an Act of the Legislature passed for that purpose. And every grant which may, at any time hereafter, be obtained for any part of the said land, shall be *ipso facto* void.

Wharves only to be built on lots opposite such streets.
1800, V, 382.

SEC. 7. That such persons as may have obtained a right to any lots opposite the said streets, in the said town of Beaufort, previous to the 21st day of December, 1798, shall be restricted, forever, from erecting any buildings thereon; and shall be, and are hereby, confined to making

no other improvements thereon than wharves, so as to leave the heads of said streets open and unobstructed.

Granting of Vacant Lands.

SEC. 8. That all vacant lands shall be granted to any citizens applying for the same, on paying the fees of office, in the manner and form, and under the several regulations and restrictions, hereafter mentioned.

Granted to citizens paying fees of office.

1791, V, 268, § 1; 1784, IV, 590, § 1;

See 1694, II, 79; 1695, II, 69, § 4; Ib., 101, § 15; 1731, III, 292, § 7; 295, § 13; 1744, III, 635, § 6; 1818, VI, 165, § 2; 2 McC., 354; 2 Bail., 491; Rice's Digest, Tit. "Escheat."

SEC. 9. The Clerks of the Courts of Common Pleas and General Sessions, in each County, shall be, *ex officio*, Commissioner of Locations in such County; and shall take and receive the original entry of all vacant lands lying and being within the same, for which a warrant of survey shall be demanded, and shall, thereupon, issue such warrant of survey, directed to some Deputy Surveyor, authorizing and requiring him, within two calendar months from the date of such warrant, to lay off and locate the lands directed to be surveyed; which said warrant, when executed, together with a true and correct plat of the survey, shall be received by the said Commissioner, who shall make a fair record of the same, and, within three months after such return, shall transmit the original plat to the office of the Secretary of State for the time being, when the same shall be delivered.

Clerks of Courts to be Commissioners of Location.

1836, XI, 116, § 49.

Their duties.

1784, IV, 590, § 3. 1 N. & McC., 345.

SEC. 10. That the Secretary of State, on the return of the entry and plat of survey to his office from the office of Commissioner of Locations, shall make out a plat of the lands surveyed, as aforesaid, and shall cause a grant to be prepared for the same, and the Great Seal of the State to be affixed thereto, and shall, within three months thereafter, cause a fair record of all such grants to be made and kept in his said office, with alphabetical indexes; and, on the first Monday of every month, the said Secretary of State shall lay before His Excellency the Governor for the time being all such grants by him prepared, as aforesaid, who is hereby empowered and directed to sign the same, and thereupon deliver them to the said Secretary of State, to be delivered to the respective grantees, or to their order.

Sec. of State to make plats of land surveyed, and keep record of plats and grants.

Grants to be signed by the Governor.

1868, XIV, 135, § 1; 1784, IV, 590, § 5; 1865, V, 462, § 2; 1785, IV, 707, § 3; Constitution, Art. 3, § 19

SEC. 11. That, in all cases, previous to the signing of the said grants, where there shall appear to be any fraud or collusion in the progress of the said entry, warrant and survey, the Judges of the Court of Common Pleas, in their respective Circuits, shall have full power and authority to cause all parties to appear before them, and, without delay, in a summary manner, decide in such as to justice and equity shall appertain. And, when the case is finally determined, the Judges shall certify the same to the Governor or Commander-in-Chief for the time being, who shall sign the grant accordingly.

Judges to decide in cases of fraud and collusion, and certify decision to Governor.

1784, IV, 590, § 5; 1785, IV, 708, § 7; 1791, VII, 275, § 12. 2 Bay, 426, 456; 1 Brev., 39, 55; 2 McC., 191; Harper, 443; 5 Rich., 267; 7 Rich., 91.

SEC. 12. The Secretary of State shall have full power and authority to appoint such and so many Deputy Surveyors in each of the said Counties

Deputy surveyors to be appointed, not exceeding six in each County.
1784, IV, 591, § 7.
1 Brev., 30.

as he may judge sufficient, not exceeding six for each County, for executing all such warrants of survey as shall be to them directed by the respective Commissioners of Locations, for whose conduct in office the said Secretary of State shall be responsible, both to the State and to the party grieved.

To take oath.

SEC. 13. That the said Deputy Surveyors of the respective Counties shall take the same oath or affirmation of office on their appointment, and in the same manner, as is prescribed to be taken by the Commissioners of Locations, before they shall be qualified to locate any warrant of survey, under the penalty of being forever disabled to act in the said office, and shall, also, within three calendar months from the date and delivery of all warrants of survey to them directed, well and faithfully locate and survey the same, and return a fair and correct plat thereof to the office of Commissioner of Locations, from whence the same had issued.

To locate warrants and return plats in three months.
Ib. § 8.

To swear chain bearers
Ib.

SEC. 14. The said Deputy Surveyors are hereby required, authorized and empowered to administer the following oath to the chain-carriers, to wit: "I, A B, do solemnly swear [or affirm] that I will well and truly execute the employment of chain-carrier, without favor or affection."

Laying off lands on navigable streams
Ib, 592, § 12.

SEC. 15. That on all creeks or rivers, navigable for shipping or boats, whereon any vacant lands shall lie, the Deputy Surveyors shall, and they are hereby directed to, lay off the same by measuring four chain back from such river and creek for every one fronting on and bounded by the same; and all surveys not made and regulated by this rule, and any grants which may be obtained thereupon, are hereby declared to be null and void, to all intents and purposes.

Deputy surveyors not following instructions, to be prosecuted
Altered to make the law prospective.
1794, V, 235, § 4.
3 Hill, 96.

SEC. 16. That every Surveyor who shall wilfully and knowingly violate the instructions of the Secretary of State in not marking out the boundaries of all lands formerly granted, and which are within the surveys by him or them made, shall be prosecuted by the Attorney General and Circuit Solicitors of the respective Counties, on proper application being made to either of them.

Grant of surveyed land to be obtained in six months.
1785, IV, 710, § 4.

SEC. 17. That a person making a survey of land shall be allowed six months, from the time of making such survey, to obtain a grant for the said land; and, in default of obtaining a grant within that time, any person may, at the expiration thereof, apply for, and shall obtain, a grant for the said land, on paying for it; and any grant obtained for land within six months from the time of its being surveyed, (except by the person for whom it was surveyed,) shall be *ipso facto* null and void.

Grants not to be delivered until the purchase money is paid.
1784, IV, 592, § 9;
1787, V, 39, § 3.

SEC. 18. That no grants already obtained shall be delivered by the Secretary to the owner thereof, until the purchase money be paid into the public treasury; and that all grants, hereafter to be obtained, shall be deemed forfeited to the State, if the purchase money be not paid within six months after the passing of the said grants; and the lands shall

be granted to any person or persons who shall apply for the same, and fulfill the conditions on which the said lands were to have been originally granted.

Sec. 19. That if, upon any survey hereafter to be made of any person's lands, it shall appear that there are more acres of land contained within the bounds of his plot, or the marked trees or stakes specified in the said plot, than is expressed in the grant or deed by which any person holds the same, that then the person claiming such overplus, as being contained, or supposed to be contained, within the bounds of his plot or marked trees, shall be preferred to a new grant thereof before any other person whatsoever.

Concerning land over measured in former grants. 1731, III, 306, §31

Sec. 20. It shall not be lawful for the Secretary of State, the Commissioners of Locations, nor the clerks in the Secretary's office, to take up any elapsed grant, or run out, either directly or indirectly, in his or their own name or names, or in the name or names of any other person or persons, for his or their use or uses, any lands now vacant within this State, without being subject and liable to the penalty of one thousand dollars, to be recovered in any court of record in this State; the one-half to the use of this State, and the other half to the use of the informer or person suing for the same; and he or they shall, also, be discharged from his or their respective offices, and forever rendered incapable of holding any office of trust or emolument in this State.

Secretary of State, Commissioners of Locations, &c., not allowed to take up elapsed grants.

Penalties. 1787, V, 35, §1; 1819, XI, 117, §52.

Sec. 21. That every grant of land which has been obtained since the twenty-first day of March, one thousand seven hundred and eighty-four, or which may hereafter be obtained, for Sullivan's Island, Middle Bay Island, commonly called the Light-house Island, or any other lands whatever, which have been, or are now, appropriated for any particular public purposes, shall be deemed and held null and void.

Grants for Sullivan's Island, &c., void. 1787, V, 35, §7.

Deputy Surveyors' Instructions.

Sec. 22. The rules for the guidance of Deputy Surveyors, in surveying vacant lands, shall be as follows:

Rules for Deputy Surveyors. Note, Vol. IV, p. 775.

To ———————:

1st. You shall not survey vacant land for any person who has not first obtained a warrant from the Commissioner of Locations of the County.

To have warrant.

2d. In all your surveys, you are to measure the whole of the lines, unless prevented by such obstructions as may endanger health; the figure of which you are to express on the plat, in the most explanatory manner, blazing the lines and making a sufficient number of stations on each line,

Measuring lines.

marked on the outside —— and corner tree or stake, at each angle †

mentioning those made by you, *new*, and those you find in the field, *old*;

and no corner or station is to be inserted by you, unless seen or made by you; except such as are expressed on the bounding line in the authentic plat of the adjacent land; and that you verily believe them to be in the field; also, you are to insert, in their proper places, all runs of water, roads, or other durable marks, which the line crosses; and all swamps, ponds, clear fields, and houses, if any there be, in the body of the tract, and the names of the persons claiming such lands, fields, or houses.

To insert runs, roads, swamps, &c., in survey.

Making out plats.

3d. All plats made out by you are to be just and true in the quantity contained, figure, courses, stations, marks and boundaries, to the best of your knowledge; plats of 100 acres, or under, to be laid down by a scale of ten chains per inch; all above 100 acres, by a scale of twenty chains; which scale you are to lay down or mention on the margin of the plats. You are to put down on each line the course and distance—you are to date your surveys on the day they are finished; and not to certify surveys performed by any other person.

These instructions to govern.

4th. The Commissioners of Locations have a right to direct such warrants to the Deputy Surveyors as the nature of the case may require; but the Deputy Surveyor is not bound to pay any obedience to any directions therein contained which are repugnant to these instructions; and all warrants are to bear date the day they are delivered out of the location offices. Any warrants delivered to any of the Deputy Surveyors, without a date, or any other part blank, are to be immediately returned to the owners, to have the blank filled up in the office from which it issued, and bear date on that day. Any Deputy Surveyor filling up any part of a warrant which is, or may be, left blank by the Commissioner of Locations, is hereby declared guilty of a violation of these instructions, and shall, in consequence thereof, be dismissed from the office.

Of warrants.

Elapsed grants.

5th. Lands which have been heretofore surveyed, and remain elapsable in either of the location offices, or Secretary of State's office, are not to be surveyed a second time, until a certificate is obtained from the office (in which they then are) of their being elapsable, and a warrant obtained from the office in the County where the land lies; which warrant shall expressly mention the land on which it is to be laid out, and that it has been formerly surveyed, and for whom.

Not to encompass lands before surveyed.

6th. You are not to encompass wholly, or in part, any heretofore surveyed lands, claimed by any other person or persons than those you are surveying for.

Resurveying granted lands.

7th. When you are called on to re-survey granted lands, the original grant is your sufficient warrant; but, if the line or lines are party lines, and are boundaries to other tracts, then you are to summon all parties to attend with their plats and grants, and to have their joint concurrence in your going on with the survey—if any dissention should arise between the parties, you must not proceed without an order from the Judge of the Court of Common Pleas, directed to you for the express purpose; and, on receiving said order, you are to attend, first, to the course and marks of the prior grant; and, should they differ from the course mentioned, you are to regulate your course by the stationed trees,

How to act in case of dissent among parties.

and other marks, and fix the prior line thereby, (allowing what variation you find,) which will be the proper bounds of both tracts; but, should the two tracts run in such a manner as to form an angle between, and the marks on each appear plain, corresponding with each plat, that angle will be vacant, and each tract will be limited by its own lines, notwithstanding the subsequent mentions the prior as a boundary. In resurveys, when lines vary from their original course, you are (where the marks are wanting) to continue the same variation throughout, in such tracts as were bounded on all sides by vacant land at the time of the original survey; but, where they have been bounded on different surveys, you are to allow, on each line, the variation of the lines of the tract on which the line bounded. Variation of lines.

8th. When you are called on to survey lands where the lines are entirely obliterated, then you are to have recourse to the boundaries, which, when fixed, will form the lines of said lands; but, if the boundaries were vacant at the time of the original survey of said lands, then you are to have recourse to such lands as bound upon it, whose courses correspond with the lines of said tract, allowing such variation as appears to have proceeded from time. When that allowance is not sufficiently made, you will find the original line on your left hand, in all cases, except where a variation happens which is occasioned by a bad instrument; but, when the allowance is judiciously attended to, you will find your present course and the original line to agree. Survey where lines are obliterated.

9th. Should any person wish you to survey lands, for the purpose of obtaining a new grant for the same, you will be particular to mention, in your certificate, that the land was formerly granted, and that the survey you then made was for the purpose of obtaining a new grant. Survey for new grant.

10th. You are not to survey any lands or marsh reserved for public purposes, nor cross, in any of your surveys, any navigable river or creek. Not to survey lands reserved to public purposes, &c.

11th. You will be particular, always, in making your lines; let there be no possibility of mistake hereafter—with a view to this, you will never run more than ten chains, at the extent, without leaving a station exactly on the line, observing never to mark it with the † unless it be a corner post. Running lines.

12th. In locating lands, you will observe the established principles laid down by the decisions of the Court of Appeals of this State. Locating lands.

13th. You will be particularly careful, always, to have the best of instruments. Touch your needle with the magnet at least once a year, and oftener, if necessary; your staff should be furnished with a ball and socket. There is no excuse for a Surveyor going into a field with a bad instrument. Instruments.

14th. Your chain must be often inspected, and preserved entire. Chain.

15th. In plotting, great attention and nicety is required to ensure accuracy—your work must always close neatly—it must never be *forced,* Plotting.

but carefully revised and corrected. Sometimes, indeed, where great attention is not paid in the first instance, it will be necessary to return to the field, where errors most frequently originate.

Conduct.

16th. Sobriety and steadiness must be observed, as well in respect to your men as to yourself, else there can be no reliance upon your work.

Scale of plat.

17th. In all surveys made by you, by order of Court, the plat you return must be laid down by a scale of ten chains to an inch, and to designate, by dotted lines, each separate tract, if more than one grant.

One station to each line.

18th. No plat will be entered in the office for record without at least one station on every line.

Fees for Surveying and Granting Lands.

Fees of Secretary of State.

1784, IV, 592, § 14; 1791, V, 153, 158, 159. Miller's Compilation, 114, 118, 119.

SEC. 23. For services in surveying and granting vacant lands, the following fees shall be allowed:

Secretary of State.—For every search, fourteen cents; for copying plat and certificate, one dollar and seven cents; for receiving, recording a plat, and sending the same to the Governor, to be passed into a grant, two dollars and fourteen cents; for a certificate, in all other cases, thirty-two cents; for making out a grant of lands, and recording and fixing the seal of the State, two dollars and fourteen cents; for a deputation and instructions to a deputy surveyor, one dollar and seven cents.

Deputy Surveyors.

1 Bail. 592; 1 Hill, 399.

Deputy Surveyors.—For surveying every acre of land, one cent; for making out a fair plat, certifying, signing, and returning the same, two dollars and fourteen cents; for running old lines for any person, or between parties where any dispute arises, or by order of Court, while they are on survey, per day, three dollars.

Commissioners of Locations.

1839, XI, 15, § 1.

Commissioners of Locations.—For recording applications, making entries, and granting warrants under hand and seal, seventy-five cents; for recording plat, and sending to Secretary of State's office, one dollar and seventy-five cents; for each copy plat and certificate, one dollar and twenty-five cents.

TITLE II.

OF ELECTIONS.

CHAPTER VII. *Of Qualifications of Electors.*
VIII. *Of the Manner of Conducting Elections and Returning Votes.*
IX. *Of the Election of Representatives in Congress, and Electors of President and Vice President.*
X. *Of the Election of County Officers.*
XI. *Of Municipal Elections.*

CHAPTER VII.

OF QUALIFICATIONS OF ELECTORS.

SEC.
1. Qualifications of electors.
2. Elections—how to be conducted.
3. Punishment for illegal voting, and fraud, &c., at elections.

SECTION 1. Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in the Constitution, without distinction of race or color or former condition, who shall have been a resident of the State for one year, and in the County in which he offers to vote for sixty days next preceding any general election, shall be entitled to vote: *Provided*, That no person, while kept in any alms-house or asylum, or of unsound mind, or confined in any public prison, shall be allowed to vote.

Qualificat'ns of Electors.
1870, XIV, 393, § 2; Constitution, Art. 8, § 2.

SEC. 2 The polls shall be open at such voting places as shall be designated at six o'clock in the forenoon, and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours without intermission or adjournment, and the Managers shall administer to each person offering to vote an oath that he is qualified to vote at this election, according to the Constitution of this State, and that he has not voted during this election.

Election, how to be conducted.
Ib. § 6.

SEC. 3. That every person who shall vote at any general election, who is not entitled to vote, and every person who shall, by force, intimidation, deception, fraud, bribery or undue influence, obtain, procure, or control the vote of any elector, to be cast for any candidate or measure, other than as intended or desired by such elector, shall be punished by a fine of not less than one hundred, nor more than one thousand dollars, or by imprisonment in jail not less than three months, nor more than twelve months, or both, within the discretion of the Court.

Punishment for illegal voting and fraud, &c., at elections.
Ib., 394, § 10.

CHAPTER VIII.

Of the Manner of Conducting Elections and Returning Votes.

Sec.
1. General election held on the third Wednesday in October every second year.

Commissioners and Managers of Election

2. Three Commissioners of Election to be appointed for each County Three Managers of Elections to be appointed for each precinct.
3. Clerk to be appointed by Managers.
4. Commissioners and Managers to organize by appointing Chairman.
5. Polls to be kept open from 6 o'clock in the morning till 6 o'clock in the evening; oath to voters.
6. Representatives in Congress to be chosen.
7. Peace officers to be present at the pol s to preserve order.
8. Bar-rooms and places for sale of liquors to be closed on days of election—sale of liquors prohibited
9. Voting to be by written or printed ballots, folded so as to conceal contents.
10. To be one general ticket.
11. One box f r each Election Precinct to be provided—how made. Person voting must deposit his own ballot.
12. Clerk to keep poll list
13. Poll list and box containing ballots to be delivered to Commissioners of Election at close of election.
14. Commissioners to form County Board of Canvassers.
15. Commissioners to meet at County seat on Tuesday following election; appoint Secretary. All to qualify
16. Votes to be counted and statement made within ten days. All papers relating to elections to be forwarded to State Canvassers.
17. Duplicate statements to be made and filed with Clerk of County.
18. Separate statements of votes given for each person voted for.
19. Three separate statements, besides those for County Clerk and Secretary of State, prepared.
20. Returns to be deposited in Post Office, post-paid and directed.

Of the Formation and Proceedings of the Board of State Canvassers.

21. Meeting of State Canvassers on or before the tenth of November.
22. Who constitute State Canvassers.
23. When President of the Senate shall act as one of the State Canvassers
24. State Canvassers to proceed to make statement of votes given for each candidate voted for.
25. Certificate delivered to Secretary of State.
26. To declare what persons elected, and decide contested cases which are not otherwise provided for in Constitution.
27. Power of Board to adjourn.
28. How election of Governor may be contested.
29. Secretary of State to record result of canvass
30. To furnish copy of each determination to person declared elected and to Governor.
31. To print statements in public newspapers.
32. To send certificates to House of Representatives of United States.
33. Secretary of State to keep record of County officers.
34. Punishment of officers guilty of neglect or corrupt conduct.
35. Commissioners of Elections to receive three dollars per day, and ten cents per mile for travel; Managers two dollars; Clerks same.

General election held on third Wednesday in October, every second year.

1870, XIV, 393, § 1.

Section 1. That the general elections in this State shall be held, pursuant to the Constitution thereof, on the third Wednesday in October, eighteen hundred and seventy, and forever thereafter on the same day in every second year, and shall be regulated and conducted according to the rules, principles and provisions herein prescribed.

Commissioners and Managers of Election.

Three Commissioners of Election to be appointed for each County. Three Managers of Election to be appointed for each precinct.

Ib., § 3.

Sec. 2. That, for the purpose of carrying on such election, it shall be the duty of the Governor, and he is hereby authorized and empowered, at least sixty days prior to any such election, to appoint, in and for each County, three Commissioners of Election, whose duty it shall be, and they are hereby authorized and empowered to appoint three Managers of Election for each election precinct of the County for which they shall, respectively, be appointed. The said Commissioners of Election and said Managers of Election shall take and subscribe, before any officer authorized to administer oaths, the oath of office prescribed by Section 30 of Article II of the Constitution, and the same shall be immediately filed, in each instance, in the office of the Clerk of the County in which said Commissioners and Managers shall be appointed; and, if there be

no such Clerk, duly qualified by law, then in the office of the Secretary of State.

SEC. 3. That the Managers are hereby authorized to appoint a Clerk to assist them in whatever duties may be required of them, who shall take the oath of office prescribed by Section 30 of Article II of the Constitution before the Chairman of the Board of Managers.

Clerk to be appointed by Managers.
Ib., § 4.

SEC. 4. That the Commissioners aforesaid, and the Managers aforesaid, at their first meetings, respectively, shall proceed to organize themselves as a Board, by appointing one of their number Chairman of the Board; and such Chairman, in each instance, shall be empowered to administer the necessary oaths.

Commissioners and Managers to organize by appointing Chairmen.
Ib., § 5.

SEC. 5. The polls shall be open at such voting places as shall be designated at six o'clock in the forenoon, and close at six o'clock in the afternoon of the day of election, and shall be kept open during these hours, without intermission or adjournment; and the Managers shall administer to each person offering to vote an oath that he is qualified to vote at this election, according to the Constitution of this State, and that he has not voted during this election.

Polls to be kept open from 6 o'clock in the morning till 6 o'clock in the evening.
Oath to voters.
Ib., § 6.

SEC. 6. Representatives in the House of Representatives of the Congress of the United States shall be chosen at such election, in the several Congressional Districts, by the qualified electors therein.

Representatives in Congress to be chosen.
Ib., § 7.

SEC. 7. The State Constables, and other peace officers of each County, are required to be present during the whole time that the polls are kept open, and until the election is completed; and they shall prevent all interference with the Managers, and see that there is no interruption of good order. If there should be more than one polling place in any County, the State Constable of such County is empowered and directed to make such assignment of his Deputies, and other peace officers, to such polling places as may, in his judgment, best subserve the purposes of quiet and order.

Peace officers to be present at the polls to preserve order.
Ib., 294, § 8.

SEC. 8. All bar-rooms, saloons, and other places for the sale of liquors by retail, shall be closed at six o'clock of the evening preceding the day of such election, and remain closed until six o'clock in the morning of the day thereafter, and during the time aforesaid the sale of all intoxicating liquors is prohibited. Any person duly convicted before a competent Court of a violation of this Section shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the Court.

Bar-rooms and places for sale of liquor to be closed on days of election—sale of liquors prohibited.
Ib., § 9.

SEC. 9. The voting shall be by ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be so folded as to conceal the contents; and such ballot shall be deposited in a box to be constructed, kept and disposed of as hereinafter provided.

Voting to be by written or printed ballots, folded so as to conceal contents.
Ib., § 11.

To be one general ticket
Ib., § 12.

SEC. 10. There shall be one general ticket, on which shall be the names of the persons voted for as Representatives in Congress, and State, Circuit and County offices.

One box for each election precinct to be provided—how made. Person voting must deposit his own ballot
Ib., § 13.

SEC. 11. The Commissioners of Election shall provide one box for each election precinct. An opening shall be made in the lid of the box, not larger than shall be sufficient for a single ballot to be inserted therein at one time, through which each ballot received, proper to be placed in such box, shall be inserted by the person voting, and by no other; each box shall be provided with a sufficient lock, and shall be locked before the opening of the poll, and the keys retained by the Commissioners, and shall not be opened during the election. Such boxes shall be labelled as follows: "Congress," "State," "Circuit" and "County Officers."

Clerk to keep poll list.
Ib., § 14

SEC. 12. Each Clerk of the poll shall keep a poll list, which shall contain one column, headed "Names of Voters;" and the name of each elector voting shall be entered by the Clerk in such column.

Poll list and box containing ballots to be delivered to Commis'rs of Election at close of election
Ib., § 15

SEC. 13. At the close of the election, and within three days after the day thereof, the Chairman of the Board of Managers, or one of them, who may be designated by the Board, shall deliver to the Commissioners of Election the poll list, and the boxes containing the ballots.

Commissioners to form County Board of Canvassers.
Ib., §§ 16, 17.

SEC. 14. The Commissioners of Election shall meet at the County seat, as provided in the last preceding Section, and shall proceed to organize, and shall form the County Board of Canvassers.

Commissioners to meet at County seat on Tuesday next following election, appoint Secretary, swear to faithfully.
Ib., § 17.

SEC. 15. They shall meet in some convenient place at the County seat on the Tuesday next following the election, before one o'clock in the afternoon of that day. They may appoint some competent person as Secretary. The Chairman shall then proceed to administer the constitutional oath to each member of the Board, as Canvassers; and shall administer the constitutional oath to the Secretary, and the Secretary shall administer to the Chairman the same oath that he shall have administered to the other members of the Board.

Votes to be counted within ten days. Papers, statements, etc., to be forwarded to State Canvassers.
Ib., § 18.

SEC. 16. They shall then proceed to count the votes of the County, and shall make such statements thereof as the nature of the election shall require, within ten days of the time of their first meeting as a Board of County Canvassers, and shall transmit to the Board of State Canvassers any protest, and all papers relating to the election.

Duplicate statements to be made and filed with Clerk of County.
Ib., § 19.

SEC. 17. Duplicate statements shall be made and filed in the office of the Clerk of the County; and, if there be no such Clerk, duly qualified, according to law, then in the office of the Secretary of State.

Separate statement of votes given for each person voted for.
Ib., § 20.

SEC. 18. They shall make separate statements of the whole number of votes given in such County for Representatives in Congress; and separate statements of all other votes given for other officers. Such statements shall contain the names of the persons for whom such votes were

given, and the number of votes given for each, which shall be written out in words at full length.

SEC. 19. There shall be prepared by the Commissioners three separate lists of each statement, besides the lists to be filed in the office of the County Clerk, or Secretary of State, and each list shall be certified to as correct, by the signatures of the Commissioners, subscribed to such certificate.

Five separate statements to be prepared. — Ib., § 21.

SEC. 20. After the final adjournment of the Board of County Canvassers, and within the time prescribed in Section 15 of this Chapter, the Chairman of the Board shall deposit in the nearest post office, directed to the Governor, Secretary of State, and Comptroller General, (the full postage paid,) each, one of the certified copies of the statement and certificate of votes, prepared as provided in the last preceding Section.

Returns to be deposited in post office, post paid and directed. — Ib., § 22.

Of the Formation and Proceedings of the Board of State Canvassers.

SEC. 21. The Secretary of State shall appoint a meeting of State Canvassers, to be held at his office, or some convenient place, on or before the tenth day of November next after such general election, for the purpose of canvassing the votes for all officers voted for at such election.

Meeting of State Canvassers on or before the 10th of November. — Ib., § 23.

SEC. 22. The Secretary of State, Comptroller General, Attorney General, State Auditor, State Treasurer, Adjutant and Inspector General, and the Chairman of the Committee on Privileges and Elections of the House of Representatives, shall constitute the State Canvassers—four of whom shall be a sufficient number to form a Board.

Who constitute State Canvassers. — Ib., § 24.

SEC. 23. If a majority of these officers shall be unable, or shall fail to attend, the President of the Senate, being notified by the Secretary of State, shall attend without delay, and, with the officers attending, shall form a Board.

When President of Senate to act as one of State Canvassers. — Ib., § 25.

SEC. 24. The Board, when thus formed, shall, upon the certified copies of the statements made by the Board of County Canvassers, proceed to make a statement of the whole number of votes given at such election for the various officers, and for each of them voted for, distinguishing the several Counties in which they were given. They shall certify such statements to be correct, and subscribe the same with their proper names.

State Canvassers to make statement of votes given each candidate voted for. — Ib., Sec., § 26.

SEC. 25. They shall make and subscribe, on the proper statement, a certificate of their determination, and shall deliver the same to the Secretary of State.

Certificate delivered to the Secretary of State. — Ib., § 29.

SEC. 26. Upon such statements they shall then proceed to determine and declare what persons have been, by the greatest number of votes, duly elected to such offices, or either of them. They shall have power, and it is made their duty, to decide all cases under protest or contest that may arise, when the power to do so does not, by the Constitution, reside in some other body.

To declare what persons elected, and to decide contested cases which are not provided for otherwise in Constitution. — Ib., § 27.

Power of the Board to adjourn.
Ib., § 30.

SEC. 27. The Board shall have power to adjourn, from day to day, for a term not exceeding ten days.

How election of Governor may be contested.
Ib., § 28: Con., Art. 3, § 4.

SEC. 28. That, in case of a contest of the election of Governor, (if the General Assembly, by concurrent resolution, shall entertain the same,) the Senate and House of Representatives shall, each separately, proceed to hear and determine the facts in the case, so far as they deem necessary, and decide thereon who, according to the 10th Section of Article VIII of the Constitution, is entitled to be declared elected. If the two branches of the General Assembly come to the same decision, they shall, by concurrent resolution, declare who is duly elected, and entitled to enter upon and exercise the office of Governor; and such person thereupon shall, upon taking the oath prescribed in the Constitution, be inducted into office. If the two branches of the General Assembly do not come to the same decision, then a general election shall be called by the Governor, to take place in not less than sixty, nor more than ninety, days, at which the qualified electors shall proceed to vote for a suitable person to fill the office of Governor.

Secretary of State to record result of canvass.
Ib., § 31.

SEC. 29. The Secretary of State shall record in his office, in a book to be kept by him for that purpose, each certified statement and determination which shall be delivered to him by the Board of State Canvassers, and every dissent or protest that shall have been delivered to him by a Canvasser.

To furnish copy of each determination to person declared elected, and to Governor.
Ib., § 32.

SEC. 30. He shall, without delay, transmit a copy, under the seal of his office, of such certified determination to each person thereby declared to be elected, and a like copy to the Governor.

To print statements in public newspapers.
Ib., § 33.

SEC. 31. He shall cause a copy of such certified statements and determinations to be printed in one or more public newspapers of this State.

To send certificate to the House of Representatives of U. S.
Ib., § 34.

SEC. 32. He shall prepare a general certificate, under the seal of the State, and attested by him as Secretary thereof, addressed to the House of Representatives of the United States in that Congress for which any person shall have been chosen, of the due election of the person so chosen at such election as Representative of this State in Congress, and shall transmit the same to the said House of Representatives at their first meeting.

Secretary of State to keep a record of County officers.
Ib., 397, § 35.

SEC. 33. The Secretary of State shall enter in a book, to be kept in his office, the names of the respective County officers elected in this State, specifying the Counties for which they were severally elected, and their place of residence, the office for which they were respectively elected, and their term of office.

SEC. 34. If any officer on whom any duty is enjoined in this Chapter shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

Punishment of officer guilty of neglect or of corrupt conduct.

Ib., § 36.

SEC. 35. The Commissioners of Election shall receive, for their compensation, three dollars per day for their services, while actually employed, and ten cents per mile for necessary travel; and the Managers shall receive two dollars per day while actually employed, and ten cents per mile for necessary travel; and the Clerks of the Commissioners, and the Clerks of the Managers, respectively, shall receive two dollars per day while actually employed: *Provided*, No Commissioner of Election shall receive pay for more than ten days, and no Manager or Clerk for more than three days.

Commissioners of Election to receive $3 per day, and ten cents per mile for travel; Managers $2; Clerks same.

Ib., § 37.

CHAPTER IX.

OF THE ELECTION OF REPRESENTATIVES IN CONGRESS AND ELECTORS OF PRESIDENT AND VICE PRESIDENT.

SEC.

Of the Election of Representatives in Congress.

1. Division of State into four Congressional Districts.
2. Each District to elect one member of Congress.

Of the Election of Electors of President and Vice President.

3. Electors of President and Vice President, how chosen.
4. Certified copies of statement of votes to be made
5. Messengers to deliver statement to Secretary of State.
6. Meeting of the Board of State Canvassers.
7. Statement of Board.
8. Certificates by Secretary of State.
9. Determination and certificate published.
10. Penalty on Messengers and others for defeating due delivery of certificates.
11. Punishment for neglect or corrupt conduct on part of officers or Managers.
12. Compensation of Messengers.

Of the Formation and Proceedings of the College of Electors.

13. Meeting of the Electoral College; vacancies to be filled.
14. To choose President and Secretary.
15. Duties of Secretary of State.
16. Vote by ballot.
17. Certified lists of candidates voted for.
18. Appoint a Messenger to deliver lists.
19. Where to be delivered.
20. Duplicate copies to be forwarded by mail.
21. Compensation.

Of the Election of Representatives in Congress.

SECTION 1. That the State of South Carolina shall be divided into four Congressional Districts, as follows: First Congressional District to be composed of the Counties of Lancaster, Chesterfield, Marlborough, Darlington, Marion, Horry, Georgetown, Williamsburg, Sumter, Clarendon and Kershaw; Second Congressional District to be composed of the Counties of Charleston, Colleton, Beaufort and Barnwell; Third Congressional District to be composed of the Counties of Orangeburg, Lexington, Richland, Newberry, Edgefield, Abbeville, Aiken and Anderson; and the Fourth Congressional District

Division of the State into four Congressional Districts.

Ordinance of Constitutional Convention, 1868, XIV, 32. 1871, XIV, 696, § 6

to be composed of the Counties of Oconee, Pickens, Greenville, Laurens, Spartanburg, Union, York, Chester and Fairfield.

Each District to elect one member of Congress.
Ord., 1868, XIV, 32, § 2.

SEC. 2. That, until the next apportionment be made by the Congress of the United States, each of the said Congressional Districts shall be entitled to elect one member to represent this State in the Congress of the United States. After such new apportionment by Congress, the General Assembly shall divide the State into as many Congressional Districts as the State is entitled to members in the House of Representatives.

*Of the Election of Electors of President and Vice President.**

Electors of President and Vice President: how chosen.
1868, XIV, 146, § 46.

SEC. 3. When an election for President and Vice President of the United States occurs, there shall be elected, by general ticket, as many Electors of President and Vice President as this State shall be entitled to appoint; and each elector in this State shall have a right to vote for the whole number of such Electors; and the several persons, to the number required to be chosen, having the highest number of votes, shall be declared and deemed duly appointed Electors.

Four certified copies of votes to be made.
Ib., § 47.

SEC. 4. The Commissioners of Election of each County shall make four certified copies of the statement of votes given for Electors in their County, one of which copies shall be filed in the office of the Clerk of the County, if there be such Clerk duly qualified by law; another of such copies they shall forthwith transmit to the Governor, another to the Secretary of State, and deliver the other as hereinafter directed.

Messengers to deliver remaining certified copy of statement to Secretary of State.
Ib., § 48.

SEC. 5. The Commissioners of Election of each County shall appoint a messenger, and shall deliver to such messenger the remaining certified copy of the statement of the votes given in their County for Electors, securely enclosed and under seal, and such messenger shall proceed forthwith to deliver the same to the Secretary of State.

Meeting of the Board of State Canvassers.
Ib., § 49.

SEC. 6. The Board of State Canvassers shall meet at the office of the Secretary of State on or before the 10th day of November next after such election—or sooner, if all the certified copies of the statements of the County Canvassers shall have been received from all the Counties—to canvass the votes given for the Electors of President and Vice President; and in case all the certified statements shall not have been received on that day, the Board may adjourn from day to day, until the same shall have been received, not exceeding five days; and if, at the expiration of four days, certified copies of the statements of the County Canvassers shall not have been received from any County, the Board shall proceed to canvass upon such of the said statements as shall have been received.

*NOTE.—Without this portion of the Act of 1868, the Election Laws would be defective, and the Commission take the responsibility of inserting it here, although the Act of 1868 is, by its own terms, now obsolete.

SEC. 7. The Board of State Canvassers shall proceed in making a statement of all the votes, and determining and certifying the persons elected, in the manner prescribed by law in relation to the election of other officers.

Statement of the Board.
Ib., § 50.

SEC. 8. The Secretary of State shall, without delay, cause a copy, under the seal of his office, of the certified determination of the Board of State Canvassers, to be delivered to each of the persons therein declared to be elected; and for that purpose he may employ such and so many messengers as he shall deem necessary.

Certificates by Secretary of State.
Ib., § 51.

SEC. 9. The determination and certificate of the Board of State Canvassers in relation to the choice of Electors shall be published in the same manner as provided in relation to the certificates of the election of other officers.

To be published.
Ib., § 52.

SEC. 10. If any of the messengers shall be guilty of destroying the certificates entrusted to their care, or wilfully doing any act that shall defeat the due delivery of them, as directed by this Chapter, he shall be punished by imprisonment in the Penitentiary, at hard labor, for a term not less than two, nor exceeding four years; and if any person shall be found guilty of taking away from any of the said messengers, either by force or in any other manner, any such certificates entrusted to his care, or of wilfully doing any act that shall defeat the due delivery thereof, as directed by this Chapter, he shall be punished by imprisonment in the Penitentiary, at hard labor, for not less than two, nor exceeding four years.

Penalty on messengers and others for defeating due delivery of certificates.
Ib., § 53.

SEC. 11. If any officer or messenger, on whom any duty is enjoined in this Chapter, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding one year.

Punishment for neglect or corrupt conduct on part of officers or messengers.
Ib., § 54.

SEC. 12. The messengers employed or appointed under this Chapter shall receive for their compensation twelve cents per mile for traveling, to be audited by the Comptroller General upon the certificate of the Secretary of State.

Compensation of messengers.
Ib., § 55.

Of the Formation and Proceedings of the College of Electors.

SEC. 13. The Electors of President and Vice President shall convene at the Capital, in some convenient place, on the day preceding the first Wednesday in December after their election; and those of them who shall be so assembled, at four o'clock in the afternoon of that day, shall, immediately after that hour, proceed to fill, by ballot and by plurality of votes, all vacancies in the Electoral College, occasioned by the death,

Meeting of the Electoral College.
Vacancies to be filled.
1865, XIV, 111, § 1.

refusal to serve, or neglect to attend at that hour, of any elector, or occasioned by an equal number of votes having been given for two or more candidates.

To choose President and Secretary.
Ib., § 2.

SEC. 14. The Electoral College being thus completed, they shall then choose a President and Secretary from their own body.

Of duties of Secretary of State.
Ib., § 3.

SEC. 15. The Secretary of State shall prepare three lists of the names of the Electors, procure to the same the signature of the Governor, affix thereto the seal of the State, and deliver them, thus signed and sealed, to the President of the College of Electors on or before the said first Wednesday in December.

Vote by ballot.
Ib., § 4.

SEC. 16. On the said first Wednesday in December, the Electors shall meet at some convenient place at the Capital, and then and there vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the persons voted for as President, and, in distinct ballots, the persons voted for as Vice President.

Certified lists of candidates voted for.
Ib., § 5.

SEC. 17. They shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify; and, after annexing thereto one of the lists received from the Secretary of State, they shall seal up the same, certifying thereon that lists of the votes of this State for President and Vice-President are contained therein.

To appoint messenger to deliver lists.
Ib., § 6.

SEC. 18. The Electors shall then, by writing, under their hands, or under the hands of a majority of them, appoint a person to take charge of the list so sealed up, and to deliver the same to the President of the Senate at the seat of Government of the United States, before the first Wednesday in January then next ensuing.

Where to be delivered.
Ib., § 7.

SEC. 19. In case there shall be no President of the Senate at the seat of Government on the arrival of the person entrusted with the lists of the votes of the Electors, then such person is required to deliver the lists of the votes in his custody into the office of the Secretary of State of the United States.

Duplicate copies to be forwarded by mail.
Ib., § 8.

SEC. 20. The Electors are also required to forward forthwith, by the post office, to the President of the Senate of the United States, at the seat of Government, and to deliver forthwith to the Judge of the United States for the District of South Carolina, similar lists, signed, annexed, sealed up and certified in the manner aforesaid.

Compensation.
Ib., § 9.

SEC. 21. Every Elector of this State for the election of a President and Vice President of the United States, who shall attend at any election of those officers, and give his vote at the time and place appointed by

law, shall be entitled to receive for his attendance at such election, and for traveling to and from his place of residence, by the most usual route, the same sum as shall, at the time, be allowed by law to members of the General Assembly for their attendance and travel, to be paid in like manner.

CHAPTER X.

Of the Election of County Officers.

SEC.
1. General election for County officers on third Wednesday in October of every second year.
2. Governor to fill vacancies where the unexpired term does not exceed one year, and, when it does, to call an election.

General election for County officers on third Wednesday in October of every second year.

1870, XIV, 338, § 1; Constitution, Art. 4, §§ 19, 20, 21, 25.

SECTION 1. There shall be a general election for the election of the following County officers, to wit: Judge of Probate, County Commissioners and School Commissioner, held in each County on the third Wednesday of October, Anno Domini one thousand eight hundred and seventy, and on the same day in every second year thereafter; and for the election of Sheriff and Clerk of the Court of Common Pleas on the third Wednesday of October, Anno Domini, one thousand eight hundred and seventy-two, and on the same day in every fourth year thereafter.

Governor to fill vacancy in any county office where the unexpired term does not exceed one year; and when it does to call an election.

1870, XIV, 374, § 1.

SEC. 2. That, in the event that a vacancy shall, at any time, occur in any of the offices in any County of this State, whether from death, resignation, disqualification, or other cause, the Governor shall have full power to appoint some suitable person, who, upon duly qualifying, according to law, shall be entitled to enter upon and hold the office to which he has been appointed for the unexpired term of the former incumbent, and shall be subject to all of the duties and liabilities incident to said officer, during the term of his service in said office: *Provided*, That no such unexpired term for which an appointment is made shall, in any case, exceed one year. If the vacancy exceeds one year, the Governor shall, by proclamation, call an election in the County, to be conducted according to law, to fill said vacancy.

CHAPTER XI.

Of Municipal Elections

SEC.
1. Election to be held for officers of cities and towns.
2. How conducted.
3. Registration of voters. Oath to be taken by voters.
4. Disposition of registration books; expenditures, how provided for.
5. Qualifications of voters.
6. Managers to count votes and report same to Mayor or Intendant, or to Clerk of Court in case of their absence.
7. Announcement of vote and declaration of election.
8. Opening and closing polls, &c.
9. Officers elected to be inducted into office Monday following election.
10. Term of office. Oath administered; by whom.
11. Compensation of Managers.
12. Bar-rooms to be closed on election day. Penalty for selling liquor on that day.

Election to be held for officers of cities and towns. 1868, XIV, 108, § 1.

SECTION 1. That His Excellency the Governor shall order an election to be held on the second Tuesday of November, in the year 1868, in all incorporated cities and towns of this State, for the election of all officers provided for by the charters of the said cities and towns.

How conducted. Ib., § 2. See 1868, XIV, 138.

SEC. 2. The Managers of Election authorized and required to conduct the election herein provided for in Section one (1) of this Chapter, are authorized to conduct all subsequent elections that may be ordered to be held in such cities and towns, until otherwise provided for by law.

Registration of voters. Oath to be taken by voters. Ib., § 3.

SEC. 3. In order to secure the free expression of all persons qualified to vote, as hereinafter provided, the Managers of Election shall open their repective polling places for three (3) days next preceding the day fixed for the election herein provided for, commencing at 7 o'clock A. M., and closing at 5 o'clock P. M., each day, and shall, during these days, record the names of all qualified electors, and their place of residence, in a book to be furnished them by the Managers. All persons who present themselves for such registration shall, before their names are recorded, take the following oath: "I, ——— ———, do solemnly swear (or affirm) that I am a citizen of the United States; that I have been an inhabitant of this State for one year next preceding this day, and for the last sixty days a resident of this city, (town, or village, as the case may be); that I reside in this ward, (or polling precinct.)

Disposition of registration books. Expenditures how provided for. Ib.

SEC. 4. The Managers shall, immediately after the election, turn over the registration books to the Mayor or Intendant, who shall cause the same to be put up in a safe and secure place. The Managers shall receive a sum of money to cover expenditures for books, stationery, &c., together with their pay, as herein allowed, from the Treasury of such city, town or village, wherein such election is held.

Qualifications of voters. Ib., § 4. See 2, Art. 5, Con.

SEC. 5. The qualifications of an elector shall be those required by the Constitution, together with a residence of sixty days, next preceding the election, within the corporate limits of the city or town, and that he has been duly registered in the ward or precinct in which he offers to vote.

SEC. 6. The Managers of Election shall, immediately after the closing of the polls, proceed to count the votes cast for each candidate, or person voted for, and make a statement or report thereof, in writing, sign, seal and transmit the same, in a sealed envelope, by one of their number, to the Mayor or Intendant of the city or town wherein the election has been held. And, if there be no acting Mayor or Intendant in any such city or town, or in the absence of such Mayor or Intendant, the same shall be transmitted to the Clerk of Court for the County in which said city or town may be.

Managers to count votes and report same to Mayor or Intendant, or Clerk of Court, in case of their absence.

Ib., § 5; amended by Com'rs

SEC. 7. The Mayor or Intendant, or Clerk of Court, shall open the report of said Managers, aggregate the same, if there be several, and shall announce and publish the whole number of votes cast, and the whole number cast for each candidate, when the several candidates so found to have received the largest number of votes for the offices for which they were voted for shall be declared duly elected.

Announcement of votes and declaration of election.

Ib.

1 S.C. Rep., 3[illegible]

SEC. 8. In all elections for city or town officers the polls shall be opened at 7 o'clock A. M., and kept open, during one day, at all the polling precincts, and in various wards, and shall close at 5 P. M. Each ward in the city of Charleston shall constitute at least one polling precinct.

Opening and closing polls, &c.

Ib., § 6.

SEC. 9. The officers elected under the provisions of this Chapter shall, on taking the oath prescribed in the Constitution, be inducted into office on the Monday succeeding their election, and shall immediately enter upon the discharge of their official duties.

Officers elected to be inducted into office Monday following election.

Ib., § 7.

SEC. 10. Said officers shall hold their offices up to the regular time fixed by charter for the election of the same, and until their successors are duly elected and qualified. The oath of office may be administered by any officer of the State who is authorized by law to administer the same.

Term of office. Oath administered by whom.

Ib., § 8.

SEC. 11. The Managers of Election shall receive, as compensation for their services, the sum of two dollars per day, for the time actually employed in such election, and, also, for the time employed in the registration of voters.

Compensation of Managers.

Ib., § 9.

SEC. 12. All bar-rooms and drinking saloons in the town or city where such election is held shall be closed on the days of election; and any person who shall sell to any person any intoxicating drinks on the day of election shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than three hundred dollars, or be imprisoned for a period not less than one month nor more than six months.

Bar-rooms to be closed on election day. Penalty for selling liquors on that day.

Ib., § 10

TITLE III.

OF THE ASSESSMENT AND COLLECTION OF TAXES.

CHAPTER XII. *Of the Assessment of Taxes.*
XIII. *Of the Collection of Taxes.*
XIV. *Of the Assessment and Collection of Taxes by Municipal Bodies.*

CHAPTER XII.

OF THE ASSESSMENT OF TAXES.

SEC.

Persons and Property Subject to Taxation.

1. All real and personal property in the State subject to taxation.
2. Every person seized of real estate must pay taxes on same.
3. Executors, Administrators, &c., personally liable for taxes; how collected.
4. Definition of "Real Property," "Personal Property," "Moneys" and "Credits."
5. Males between twenty-one and fifty years, taxable polls; exception.

Property Exempt from Taxation.

6. Property exempt from taxation.
7. Who shall list personal property for taxation, and what.
8. Trustees to list trust property separate from their own.
9. All personal property taxed where situated.
10. Return of property to be made between July 1st and August 20; what shall be returned.
11. Who deemed to be a merchant; how returns made up.
12. Who to be deemed manufacturer; how to make returns; machinery and manufactured articles on hand more than a year to be returned; proviso.
13. Road, and, right of way, &c., &c., of turnpike, plank-road, bridge, telegraph, &c., company, deemed personal property; returned with other personal property before 20th of August.
14. President and Secretary of Railroad Companies to make returns between 1st July and 20th of August to State Auditor; contain what.
15. President and Secretary of Railroad Companies to make returns to County Auditors same as to State Auditor.
16. How the value of railroads determined; what stated in returns.
17. Return made in the form prescribed by Auditor.
18. Receiver to make returns.
19. Power of State Auditor to put questions and make examinations by himself or others; penalty for neglect or refusal to submit to examination.
20. State Board to equalize property of railroad companies; records to be kept by the Auditor of state.
21. State Auditor to certify to County Auditors determinations of State Board of Equalization.
22. If railroad companies fail to make returns, State Board of Equalization to make return for them from best information; penalty; state Auditor shall certify to County Auditor; County Commissioners.

Express and Telegraph Companies.

23. Express and telegraph companies defined; returns to State and County Auditors.
24. Penalty for failure to make returns; mode of assessment when failure to make returns, and penalty.
25. How to make returns when principal office is out of State; penalty for failure to answer questions of Auditor.

Insurance Companies.

26. Foreign insurance agents shall make returns; agents personally responsible for taxes.
27. State insurance companies to make returns where principal office is.

Companies and Corporations.

28. Corporations and companies owning property in and out of State to return only property in State for taxation.
29. Having no property in State, not to return same for taxation.
30. Companies and corporations, not specially provided for, to make returns like individuals.
31. Companies under joint charters of this and another State; how taxed.

Banks and Banking Associations.

32. Bank stock to be listed at true value in money, and taxed where located.
33. Real estate of banks taxed where located.
34. Banks shall keep a list of stockholders, to be open to inspection of revenue officers.
35. President and Cashier of banks to return to County Auditor names and residences of stockholders.

SEC.
36. County Auditor to deduct from total value of stock, value of the real estate of bank, and tax remainder.
37. Taxes assessed on bank stock to remain a lien till paid; after notice not transferable till taxes paid.
38. Banks may pay taxes on shares.
39. If stock not returned to County Auditor he shall examine books and persons; penalty for failure to make return to Auditor.
40. Banks and bankers to make statement to County Auditor.
41. Average to be obtained by adding amounts and dividing by number of months.
42. What shall constitute a bank, banker or bankers.
43. County Auditor to have same power in reference to bankers as to individuals, &c; penalty for false return.

Pawnbrokers and Miscellaneous Provisions

44. Pawn brokers to make returns to the Assessor.
45. Persons claiming to be non-property holders required to make oath; penalty.
46. Proceeds of mines to be taxed.
47. State Auditor to prescribe forms of returns and oath.
48. County Auditor to ascertain the value of property of persons who do not make a statement
49. Persons failing to list property, the value thereof shall be added to list of next year with fifty per cent. penalty.
50. All real and personal property to be valued at its true value in money; to be determined by selling price.
51. Money, bank bills, and other bills, lawfully circulating as money, valued at par; how valuations to be made.
52. Assessments of personal property, and new valuations of real property, to be made between 2d Monday of July, and 2d Monday of August, annually; returns to be made.
53. County Auditors shall make alphabetical lists of the names of all persons to whom forms are delivered; statement of new structures.
54. County Auditors shall make lists of property owners, and enter value of property taxable, &c.
55. County Auditors, annually, when taking list of personal property, shall take lists of real property not before listed; additions and deductions to be made to lists.
56. County Auditors to state, in column of remarks, the amount he believes shall be added to list of tax payers; duty after return made as to property not returned.
57. Form of oath for County Auditors to take and attach to personal property.
58. Person, company or corporation commencing business after 1st day of July, the capital of which shall not have been previously listed, to make return in thirty days.
59. County Auditors to ascertain all persons commencing business after 1st of July, annually.
60. Penalty for failing to report commencement of business to County Auditor.
61. County Auditors to make out correct descriptions of each tract or lot of real property in his County; owners required to furnish same.
62. County Auditor authorized to enter and examine buildings, &c., to ascertain value.
63. County Auditor to make return in tabular form; contain names of persons and corporations owning property; value of property.
64. County Auditor to enter in list a description of real estate not taxed.

SEC.

Boards of Equalization.

65. A County Board of Equalization: Special Board for city of Charleston; equalization of values; raising and reducing of values; aggregate value not reduced; record of proceedings.
66. County Auditor to make return to State Auditor before 30th of September of abstract of real property; contain what.
67. State Board of Equalization to consist of one member from each Congressional District; elected in 1870, and every fifth year thereafter; Governor to fill vacancies; duties and powers.
68. County Board of Equalization to be composed of County Commissioners, County Auditor and County Treasurer; powers and duties; proviso.
69. Special Board of Equalization for city of Charleston; powers and duties.
70. County Auditors to lay valuation before Board of Equalization; shall keep a journal of proceedings; power of City Board, and County Board of Equalization.
71. County Auditor to adjust value of real estate according to order of Board of Equalization.
72. State Auditor to transmit statement to the County Auditors, who shall add to, or deduct from, the per centum on valuation as ordered. State Auditor to give notice to County Auditors of rate of taxation.
73. State Auditor to prepare and transmit forms to County Auditors. These instructions to be obeyed.
74. County Auditors shall make schedule of taxable property, and deliver the same to County Treasurer.
75. County Auditor to determine the sums to be levied upon each lot of real property.
76. Fractional assessments; what extent, and how made.
77. County Auditor to enter taxes on duplicate retained in his own office; how entered on County Treasurer's duplicate.
78. County Auditor to make record of delinquents.
79. County Auditors may correct omissions.
80. County Auditor to examine persons or corporations suspected of making false returns.
81. If a party or witness refuse to appear and be sworn, or answer, to be deemed guilty of contempt; punishment.
82. If, upon examination, County Auditor finds false return made, he shall make true return, and add fifty per cent. as penalty.
83. Who shall pay expense of examination before Auditor.
84. Fees to be allowed for service of summons by Sheriff or Constable.
85. County Auditors to add value of property not returned by owner, and penalty of fifty per cent.
86. Persons failing to make required returns; penalty.
87. County Auditor shall receive returns from persons who have been sick or absent.
88. County Auditor shall correct valuation of real property where structures of one hundred dollars or more in value have been made or destroyed; proviso.
89. County Auditor to transmit abstract of duplicate of his County on or before the 20th of November.
90. County Auditor to attend in his office on or before the 15th of January, annually, to make settlement with County Treasurer; what settlement shall be; only three causes justify failure to collect taxes.

SEC.
91. County Auditor to ascertain true amount collected by Treasurer on account of each fund, and give settlement to Treasurer.
92. County Auditors may appoint assistants; compensation for such assistants, how to be ordained.
93. When offices of Auditors shall be open to receive returns.

Persons and Property Subject to Taxation.

All real and personal property in the State subject to taxation.

Constitution, Art. 9, § 1; 1866, XIV, 27.

SECTION 1. That all real and personal property in this State, and personal property of residents of this State, which may be kept or used temporarily out of the State, with the intention of bringing the same into the State, or which has been sent out of the State for sale and not yet sold; all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of parties resident in this State, shall be subject to taxation.

Every person seized of real estate must pay taxes on same.

Ib., 64, § 133.

SEC. 2. Every person shall be liable to pay taxes and assessments on the real estate of which he or she may stand seized for life, by courtesy, in dower, as husband in right of his wife, or may have the care of, as guardian, executor or trustee.

Executors, Administrators, &c., personally liable for taxes—how collected.

Ib., § 136.

SEC. 3. All executors, administrators, guardians trustees, receivers, officers, husbands, fathers, mothers, agents or factors, shall be personally liable for the taxes on all personal property which they are required, respectively, to list for taxation by the provisions of this Chapter, and which was in their possession at the time when the return thereof for taxation shall have been made by themselves or the Assessors, and may retain in their hands a sufficient amount of the property, or proceeds thereof, to pay such taxes for the entire year; and the County Treasurer may collect such taxes by any and all the means provided by this or the following Chapter, either of the principal or beneficiary, or of the person so acting as executor, administrator, guardian, trustee, husband, father, mother, agent or factor, receiver or officer.

Definition of "real property," "personal property," "moneys," and "credits."

Ib., 27, § 2.

SEC. 4. The phrase "real property," as used in this and the following Chapter, shall be held to mean and include not only land, city, town and village lots, but all things therein contained, and all structures, and other things so annexed or attached thereto as to pass to the vendee by the conveyance of the land or lot. The phrase "personal property," as used in this and the following Chapter, shall be held to mean and include all things, other than real estate, which have any pecuniary value, and moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise. The term "moneys" or "money," as used in this and the following Chapter, shall be held to mean and include gold, silver, and other coin, bank bills, and other bills or notes, authorized to be circulated as money, whether in possession or on deposit subject to the draft of the depositor or person having the beneficial interest therein on demand. The term "credits," as used in this and the following Chapter, shall be held to mean the remainder due, or to become due, to a party after deducting from the amount of all legal debts, claims and demands in his favor, the amount of all legal debts and demands against him, whether such demands be payable in money, labor or other valuable

things. But, in ascertaining such remainder, no deduction shall be made of any obligation to any mutual insurance company, given for insurance, nor of any subscription to the capital stock of any joint stock company, nor of any taxes assessed against the party, nor of any subscription to any religious, scientific, literary or charitable purpose, nor of any acknowledgment of a liability not founded on a legal and valuable consideration, nor any more of any joint liability with others than the party honestly believes he will be compelled to pay, nor any contingent liability, nor of any acknowledgment of debt or liability made for the purpose of diminishing the amount of credit to be returned for taxation. The phrase "investments in bonds," as used in this and the following Chapter, shall be held to mean all investments of money or means in bonds of whatsoever kind, whether issued by the Government of the United States, or of this or any other State or Territory of the United States, or any foreign Government, or any county, city, town, or other municipality, or by any corporation or company of this or any other State or country. The phrase "investments in stocks," as used in this and the following Chapter, shall be held to mean and include all investments of money or means in the evidences of indebtedness, other than bonds or bills designed to circulate as money, issued by any government or municipality, and shares of the capital of any corporation, company or association, and every interest in any such shares, or portion thereof; also, all interests or shares in ships, boats, or other vessels, used, or designed to be used, exclusively or partially, in navigating the waters within or bordering on this State, whether such ship, boat or vessel be within the jurisdiction of this State or not, and whether such vessel be registered or licensed at any Collector's office in this State or not. The word "oath," as used in this and the following Chapter, shall be held to mean and include an affirmation duly made. The words "person" and "party," and other word or words importing the singular number, as used in this and the following Chapter, shall be held to include firms, companies, associations and corporations; and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this and the following Chapter requires it. All words in this and the following Chapter, importing the masculine gender, shall apply to females also; and all words in this and the following Chapter, importing the present tense, shall apply to the future also.

"Investments in bonds"

"Investments in stocks."

"Oath."

"Person" and "party"

SEC. 5. There shall be assessed on all taxable polls in this State, an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes. Every male between the ages of twenty-one and fifty years, except those incapable of earning a support from being maimed, or from any other cause, shall be deemed taxable polls.*

Males between 21 and 50 years taxable polls—exception.

Ib., 40, § 43; Constitution, Art. 9., § 2.

*NOTE.—The last sentence in this Section is suggested from the Act to raise supplies for 1866, though that Act is now obsolete. Some provision of the kind is necessary, and this is, therefore, suggested.

Property exempt from taxation.

Constitution, Art. 9, § 5. 1868, XIV, 28, § 3.

Property Exempt from Taxation.

SEC. 6. The following property shall be exempt from taxation, to wit:

Of public schools.

1st. All public schools, and the grounds actually occupied by them, not exceeding, in any case, three acres.

Churches.

2d. All houses used exclusively for public worship, the books and furniture therein, and the ground actually occupied by them, not exceeding, in any case, two acres.

Institutions of learning.

3d. All incorporated public colleges, academies, and institutions of learning, with the funds provided for their support, and the grounds and buildings actually occupied by them, and not used with a view to pecuniary profit; but this provision shall not extend to leasehold estates held by others under the authority of any college or other institution of learning.

Endowment or support of public schools

4th. All real and personal property, the rents, issues, incomes and profits of which have been or shall be given to any city, town, village, school district or sub-district in this State, exclusively for the endowment or support of public schools therein, so long as such property, or the rents, issues, incomes or profits thereof shall be used or applied exclusively for the support of free education in said schools, by such city, town, village, district or sub-district.

Cemeteries.

5th. All grave-yards or cemeteries, except such as are held with a view to profit or speculation in the sale thereof.

U. S. and State property.

6th. All property owned exclusively by the United States or this State.

County buildings.

7th. All buildings owned by Counties and used exclusively as court houses, jails or public offices, with the grounds on which such buildings are or may be erected, not exceeding ten acres in any County.

Poor houses, &c.

8th. All lands, houses, fixtures and property owned by any County or city, and used exclusively for the support of the poor.

Charitable institutions.

9th. All property belonging to institutions of purely public charity, and used exclusively for the maintenance and support of such institutions.

Fire engines, and property thereto appertaining.

10th. All fire engines and other implements used in the extinguishment of fires, with the buildings and grounds used exclusively for the keeping and preservation thereof, when owned by any city, town or village, or any fire company organized therein.

Of public grounds.

11th. All public squares or grounds and market houses owned by any city, village or town, and used exclusively for public purposes.

Of public halls.

12th. All city, town and village halls owned and used exclusively for public purposes, by any city, town or village.

Water works.

13th. All water works to supply water for the use of a town or city, the machinery and fixtures connected therewith, and the grounds occupied thereby, when owned by any city or town.

14th. All bonds of this State which, by the terms of the Act under which they are or may be issued, are or may be exempted from taxation. Bonds of this State.

15th. All bonds and stocks of the United States, which are not authorized by the laws of the United States to be taxed under State authority. U. S. bonds.

16th. All rents accruing from real estate which shall not become due within two months after the first day of July of the year in which taxes are to be assessed thereon. Rents. 1871, XIV, 619, § 1, ¶ 2.

17th. All of any annuity not payable on or before August first of the year for which taxes are to be assessed thereon. Annuities. Ib.

18th. All pensions payable to any person by the United States, or any State of the United States. Pensions.

19th. All shares of the capital stock of any company or corporation, which is required to list its capital and property for taxation in this State. Shares.

20th. All the wearing apparel of the person required to make return, and his family. Wearing apparel.

21st. Articles actually provided for the present subsistence of the person or his family, to the value of one hundred dollars. Subsistence.

Return and Assessment of Property.

SEC. 7. Every person, of full age and of sound mind, except married women, shall annually list for taxation the following personal property, to wit: Who shall list personal property for taxation, and what. Ib., 30, § 4.

1st. All the tangible personal property in the State owned or controlled by him.

2d. All the tangible personal property owned by him or other residents of South Carolina, and under his control, which may be temporarily out of the State, but is intended to be brought into the State. Out of the State.

3d. All tangible personal property owned or controlled by him which may have been sent out of the State for sale, and not yet sold; and,

4th. All the moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise owned or controlled by him, whether in or out of this State. The property of every ward shall be listed by his guardian; of every minor child, having no other guardian, by the father, if living; if the father be dead, by the mother, if living; if the mother be dead or married, by the person having it in charge; of the wife, by the husband, if living and sane, and the parties are residing together; if the husband be dead, or is insane, or is not living with his wife, by the wife; of every person for whose benefit property is held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property or assets are in the hands of receivers, by such receivers; of every firm, company, body politic or corporate, by the President or principal accounting officer, partner or agent thereof; of all persons in Moneys, credits, &c. Who shall list property.

the hands or custody of any public officer or appointee of a Court, by such officer or appointee; of those absent or unknown, by their agent or the person having it in charge; of lessees of real property, by such lessees.

Trustees to list trust property separate from their own.
Ib., § 5.

SEC. 8. All persons required by law to list property for others shall list it separately from their own, and in the name of the owner thereof; but shall be personally responsible for the taxes thereon for the year in which they list it, and may retain so much thereof, or the proceeds of the sale thereof, in their own hands as will be sufficient to pay such taxes.

All personal property taxed where situated.
Ib., § 6.

SEC. 9. All horses, neat cattle, mules, asses, sheep, hogs, wagons, carts and other vehicles used in any business; furniture and supplies used in hotels, restaurants, and other houses of public resort; all personal property used in, or in connection with, storehouses, manufactories, warehouses, or other places of business; all personal property on farms; all merchants' and manufacturers' stock and capital, shall be returned for taxation, and taxed in the city, village and town in which it is situated; all bankers' capital and personal assets, pertaining to their banking business, in the city, town and village in which the banking house is located; all shares of stock in incorporated banks located in this State, in the city, town and village where the bank is located; all property of deceased persons shall be returned for taxation at the residence of the executor, or administrator, if in the County where administration may be legally grantable; but, if the executor or administrator reside out of such County, at the County seat of such County, until distribution thereof and payment may be made to the parties entitled thereto; and all other personal property shall be returned for taxation, and taxed at the place where the owner thereof shall reside at the time of listing the same, if the owner reside in this State; if not, at the residence of the person having it in charge; and all real estate shall be taxed in the County, city, ward and town where it is located.

Return of property to be made between July and August.
Ib., 31, § 7; 1871, XIV, 619.

SEC. 10. Every person required by law to list property shall, annually, between the first day of July and the twentieth day of August, make out and deliver to the Auditor of the County in which the property is, by law, to be returned for taxation, a statement, verified by his oath, of all the real estate which has been sold or transferred since the last listment of property, for which he was responsible, and to whom, and of all the personal property possessed by him or under his control on the first day of July of that year, either as owner, agent, parent, husband, guardian, executor, administrator, trustee, receiver, officer, partner, factor or holder, with the value thereof, on said first day of July, at the place of return, estimating according to the rules prescribed by law, which statement shall set forth:

What shall be returned.

1st. The number of horses, and their value.

2d. The number of neat cattle, and their value.

3d. The number of mules and asses, and their value.

4th. The number of sheep and goats, and their value.

5th. The number of hogs, and their value.

6th. The value of gold and silver plate, and number of gold and silver watches, and their value.

7th. The number of piano fortes, melodeons and cabinet organs, and their value.

8th. The number of pleasure carriages, and their value.

9th. The number and value of dogs.

10th. The value of goods, merchandise, moneys and credits pertaining to his business as a merchant.

11th. The value of materials received, used, or provided to be used, in his business as a manufacturer.

12th. The value of all machinery, engines, tools, fixtures and implements used, or provided for his use, in his business as a manufacturer, and of all manufactured articles on hand one year or more.

13th. The value of moneys, including bank bills and circulating notes.

14th. The value of all credits.

15th. The value of investments in the stocks of any company or corporation out of this State, except National Banks.

16th. The value of all investments in bonds, except bonds of the United States and this State expressly exempted from taxation.

17th. The annual value of all leases except permanent leases.

18th. The value of all other property.

Who deemed to be a merchant. How returns made up.

Ib., § 8; 1871, XIV, 615, § 1, ¶ 4; 1871, XIV, 623, § 1.

SEC. 11. Any person who shall, at any place in this State, be engaged in the business of buying and selling personal property, or in selling personal property consigned to him from any place out of the State, or property not the product of this State, consigned to him from any place within this State, shall be held to be a merchant, and, at the same time he is required to list his other personal property, shall deliver to the Auditor of the County in which his place of business is situated a statement, under his oath, of the average monthly value of the personal property, moneys and credits pertaining to his mercantile business; to ascertain which, he shall set down the value on hand on the first day of July of the preceding year, or other time of commencing business during the year, add thereto all purchases, when made at cost, ascertain the average value on hand for the month, deduct the average amount of sales for the month, at cost, and the remainder shall be the average on hand for that month; and, in like manner, ascertain the average value for each month, down to the first day of July of the year in which the return is to be made, add together such monthly values, divide the aggregate by the number of months he has been in business during the preceding year, as aforesaid, and to the quotient add the moneys and credits on hand the first day of July of the year in which the return is made, and the product of this last addition shall be the sum upon which he shall pay taxes for the year in which the return is made.

Who to be deemed manufacturer. How to make returns. Machinery and manufactured articles on hand more than a year to be returned.

Ib., 32, § 9; 1871, XIV, 619, § 1, ¶ 5; 1871, XIV, 625, § 1.

SEC. 12. Every person engaged in making, fabricating or changing things into new forms for use, or in refining, rectifying or combining different materials for use, shall be held to be a manufacturer, and shall, at the same time he is required to list his other property, make and deliver to the Auditor of the County in which his place of business is situated, a statement of the average value, estimated as provided in the preceding Section, of all articles purchased, received, or otherwise held for the purpose of being used by him in his business, at any time during the year preceding the first day of July of the year in which the return is made; and he shall also list, at their full value, all machinery, tools, implements, fixtures and engines, used, or purchased for use, in his business, (except such as have been appraised for taxation as part of the realty,) together with all manufactured articles which have been on hand and remained unsold for one year or more prior to the first day of July of the year in which the return is made; also, all the moneys and credits pertaining to said business, on hand on said first day of July: *Provided*, That all materials provided for use in said business shall be estimated as on hand until sold, or remain on hand in a manufactured state for one year.

Proviso.

Road bed, right of way, &c., &c., of turnpike, plank road, bridge, telegraph company, deemed personal property. Returned with other personal property.

Ib., § 14; 1871, XIV, 620, ¶ 1.

SEC. 13. The road bed, right of way, station buildings, toll houses, structures, tools, machinery, poles, wires, fixtures, vessels and real estate, owned and necessarily in daily use by any turnpike, plank-road, bridge, telegraph, canal or slack water navigation company, in the prosecution of its business, shall, for the purposes of this Chapter, if the company be organized in this State, be held to be personal property, and the President, Secretary, or principal accounting officer thereof, shall include the value thereof in the return of the other personal assets of such company for taxation; which return shall be made in the month of July, or before the twentieth of August, annually, to the several Auditors of the Counties in which such road, canal, bridge, telegraph line, or slack water navigation may be situate, according to the value of such property in each, together with a statement of the amount of such assets situate in each city, town, village or ward in said Counties, respectively; and the value of the movable assets of such company shall be apportioned to each town, city, ward, or village, in proportion to the value of the road bed, canal, slack water navigation, bridge or telegraph line in each.

President and Secretary of railroad companies to make returns between 1st July and 20th August to State Auditor: contain what.

Ib., § 11; 1871, XIV, 620, ¶ 1.

SEC. 14. The President and Secretary of every railroad company whose track or road bed, or any part thereof, is in this State, shall, annually, between the first of July and twentieth of August, return to the Auditor of State, under their oaths, the total length thereof in each County, town, city and incorporated village in this State, the total length of their double track in this State, and the length thereof in each County, town, city, and incorporated village of this State, the total length of all their side tracks, and the length thereof in each city, County, town and incorporated village in this State; the location and value of all their shops, depots, grounds, station houses, wood and water stations, buildings, stationary engines, tools, implements and fixtures in South Carolina,

and all other real estate necessary to the daily running operations of the road; the number and value, each, of all their locomotive engines, passenger, freight, platform, gravel, construction, hand and other cars; the value of their moneys and credits; the total value of the entire road appurtenances and equipments, and the total value of said road in South Carolina, with its appurtenances and equipments.

President & Secretary of railroad company to make returns to County Auditor same as to State Auditor

Ib., 33, § 12; 1871, XIV, 620, § 1.

SEC. 15. The President and Secretary of every railroad company, mentioned in the preceding Section, shall also, annually, between the first of July and the twentieth of August, return to the County Auditor of each County in South Carolina, through or into which such road, or any part thereof, may be located, a statement of the value of said road, and the property of the company in said County, and in each of the towns, cities and villages of said County, through or into which said road, or part thereof, is located, in the manner and form required by this Chapter in the return to the Auditor of State.

How the value of railroad determined—what stated in return.

Ib., § 13.

SEC. 16. In ascertaining the value of the road and property of any railroad company, the value of the right of way, bed and track of the whole road shall be fixed, and such value apportioned *pro rata* to each mile of the main track; and to the value of the number of miles of main track in each town, city and incorporated village of each County in this State, through and into which said road is located, shall be added the value of the real estate, fixtures, stationary engines, tools, implements, machinery, and other stationary property provided for use in the daily operations of the road, situate in said town, city or village; and the total value of the rolling stock, moneys and credits, shall be apportioned *pro rata* to each mile of the main track of said road, and the amount thereof, according to the number of miles of main track in each town, city and village in this State, added to the value of the main track in such town, city and village, respectively; and the aggregate value of said road and property in this State, and in each County, city, town and incorporated village of this State, through or into which said road is located, shall be stated in said return.

Return made in the form prescribed by Auditor.

Ib., § 14.

SEC. 17. The return and oath required by this Chapter of officers of railroad companies, shall be made in such form as shall be prescribed by the Auditor of State.

Receiver to make returns.

Ib., § 15.

SEC. 18. If any railroad, its appurtenances, equipments, &c., shall be in the hands of a receiver or other officer, such receiver or other officer shall make the returns required by this Chapter.

Power of State Auditor to put questions and to make examinations by himself or by others.

SEC. 19. The Auditor of State, or any person appointed by him for that purpose, may put any question, in writing, he may deem proper, to any officer, agent or receiver of any railroad company having any portion of its track in this State; and he may summon any officer, receiver or agent of such company to appear before him and testify, under oath, (which oath said Auditor is authorized to administer,) touching such rail-

Penalty for neglect or refusal to submit to examination.
Ib., § 16

road company's property, and the management and disposition thereof; and he may, by himself, or some person appointed by him, examine the books and papers of such company, in the hands of the company, or any of its officers, agents or receivers; and all such officers, agents and receivers shall answer, under oath, all such questions as shall be put to them, or either of them, by said Auditor, or any person appointed by him for that purpose, relative to the condition, amount and value of said company's property, and the management or disposition thereof; and if any such officer, receiver or agent shall refuse or neglect to appear before said Auditor, or the person appointed by him, or to answer any question put to him or them, as aforesaid, or submit the books and papers aforesaid for examination, in manner aforesaid, he shall be deemed guilty of a misdemeanor, and, upon indictment and conviction therefor, in the Court of General Sessions for any County, (which Court shall have complete and full jurisdiction in all such cases,) shall be fined in any sum not exceeding five hundred dollars, and costs of prosecution, and confined in the jail of said County until he answers all questions which may be put to him by the Auditor of State, and until said fine and costs be paid.

State Board of Equalization to equalize property of railroad companies.
Ib., 34, § 17; 1871, XIV, 620, § 2

SEC. 20. The Auditor of State, Treasurer of State, Secretary of State, Comptroller General and Attorney General of the State shall constitute a State Board of Equalization, a majority of whom shall constitute a quorum for the transaction of business,) who shall meet at the office of the Auditor of State, at the capital, on the second Wednesday of September, annually, and equalize the value of the property of railroad companies whose roads are wholly or partially in this State, as returned to the Auditor of State, under the provisions of this Chapter, by increasing the value of the roads and property of such companies as shall have been, in their judgment, returned at too low a valuation, and diminishing the values of such as may have been returned at too high a valuation. They shall keep a record of their proceedings, which shall be signed by all the members present, and deposited with, and kept by, the Auditor of State; and a majority of the members present shall be competent to decide all questions which may come before said Board.

Records to be kept by the Auditor of State.

State Auditor to certify to County Auditors determination of State Board of Equalization.
Ib., § 18

SEC. 21. The Auditor of State shall certify to the County Auditor of each County in which any railroad, or part thereof, may be located, the valuations of railroad property in said County, as returned to him, with all additions made to, or deductions from, the valuation of the property of any railroad company in said County by the State Board of Equalization; and the County Auditor shall charge the railroad company in the several towns, cities and incorporated villages of their County, for taxation, with the valuations returned by such company or companies, after adding thereto, or deducting therefrom, the amounts directed by the Auditor of State.

SEC. 22. If any railroad company, or its officers, shall fail to make the returns to the Auditor of State required by this Chapter, on or before the 20th day of August, annually, the State Board of Equalization shall proceed to ascertain the value of said company's road and property, according to the principles prescribed in this Chapter, from the best information they can conveniently obtain, and add thereto fifty per centum as penalty, and apportion the same to the several Counties, towns, cities and incorporated villages, through or into which said road, or any part thereof, may be located. And the State Auditor shall certify the same to the several County Auditors, who shall place the same on their duplicates for taxation; and if any such company, or its officers, shall fail to make the return to any County Auditor required by this Chapter, the State Auditor shall ascertain the amount properly chargeable to such company in said County, and certify the same to the proper County Auditor, adding ten dollars thereto as penalty, (the whole of which penalty shall be paid into the State Treasury,) and the County Commissioners shall charge such company, in the proper municipalities, with the taxes on the value so certified by the State Auditor, and charge said company on the duplicate, separately, with said ten dollars, without charging any taxes thereon, and the County Treasurer shall pay the same into the State Treasury at his first annual settlement after the collection thereof.

If R. R. Co's fail to make return, State Board of Equalization to make returns for them from best information.

Penalty.

Ib., 13; 1871, 620 ¶ 5.

State Auditor shall certify to County Auditors.

County Commissioners

Express and Telegraph Companies.

SEC. 23. Any person or persons, company or corporation, engaged in the business of conveying to, from, or through this State, or any part thereof, moneys and other personal property, shall be held to be an express company; and any person or persons, company or corporation, engaged in the business of transmitting messages to, from, or through this State, or any part thereof, shall be held to be a telegraph company; and any such company, having its principal office out of this State, shall, annually, in the month of July, or before the twentieth of August, by its principal agent in this State, make out and deliver to the State Auditor, a statement, under oath, showing the value of all its personal property in this State, including poles, wires, batteries, machinery, materials and apparatus, and the Counties, cities, towns and incorporated villages in which the same may be situate, together with the gross earnings of said company in this State, for business done in this State the year ending the first day of that month, and the company's proportion of receipts for business done in connection with the lines of other companies out of this State, from the aggregate of which shall be deducted the amount paid out of any such express company to railroad and other transportation companies in this State, for transporting the property carried over said transportation lines in this State; and which statement shall show the value of said property and receipts, after making the deduction aforesaid, by any such express company in each County, town, city and incorporated village in which such express company has an agency or agencies, and from which aggregate shall be deducted, by any such tele-

Express Company defined.

Ib., 35, § 20; 1871, XIV, 620, ¶ 4.

Telegraph Company defined.

To make returns to State and County Auditors: show what.

15 Rich., 66.

graph company, the expenses of the office in this State, to which all other agencies of the company in this State are required to make returns, except rents and officers' salaries; and which statement shall also show the aggregate value of the property and receipts aforesaid, after making the deduction aforesaid in each County, city, town and incorporated village in which such telegraph company may have an agency or agencies; and said company, by its said principal agent, shall, also, between the first of July and twentieth of August, annually, deliver to the Auditor of each County in this State, in whose County such company may have an agency or agencies, a statement of the proportion of the net value of the property and receipts aforesaid, showing the amount thereof in each town, city and incorporated village in which it has any agency or agencies; and said company shall be charged on the duplicate of each of said Counties with taxes on the amount so returned in each town, city and village aforesaid: *Provided*, That ordinary transportation companies, engaged exclusively in the transportation of merchandise over the railroads and canals of this State, in connection with other roads, canals, or lines of navigation, shall not be considered express companies, within the meaning of this Chapter.

Proviso.

Express and Telegraph Companies to forfeit $500 for failure to make return to State Auditor—$10 for failure to make returns to County Auditor. Mode of assessment where failure to make returns, and penalty.

Ib., § 21; 1871, XIV, 620, § 5

SEC. 24. If any express or telegraph company shall fail to make and deliver to the State Auditor the statement required by this Chapter, on or before the twentieth day of August, annually, such company shall forfeit and pay to the State of South Carolina five hundred dollars, as a penalty, and the State Auditor shall certify the fact of such failure to the Auditor of any County in this State in which said company may have an officer or an agent, and said Auditor shall place the same on the duplicate of said County, and collect the same in the same manner as taxes are collected, and pay the same over to the State Treasury, at his next annual settlement with the Auditor of State; and if any express or telegraph company shall fail to make to the Auditor of any County in this State, the statement required by this Chapter, on or before the last day of September of any year, such County Auditor shall notify the State Auditor thereof; and if the State Auditor shall have received from said company the statement required by this Chapter to be made to him by said company, he shall certify the amount returned as in said County to such County Auditor, and add thereto, as penalty, the sum of ten dollars, which shall be charged to said company on the duplicate of said County, collected and paid over to the State Treasurer in the same manner herein provided as to the penalty for not making the return to the State Auditor: *Provided*, That if any express or telegraph company shall fail to return the statement required by this Chapter to the State Auditor, and the State Auditor shall certify such failure to any County Auditor, such County Auditor shall proceed to ascertain the gross receipts of each agent of said company in his County, for the year ending the first day of July of that year, together with the value of all other property of the company in his County, add fifty per cent. thereto as penalty, and charge the company with taxes thereon, at the several localities required by this Chapter, without any deduction for expenses

paid out by the company. And if any such company shall have no principal office or agency in this State to which the other agents in the State are required to make return, each agent thereof in any County shall make return in the month of July, or before the twentieth of August, annually, of the gross receipts of his agency, for the year ending the first day of that month, with the value of all other property of the company in the city, village or town in which his agency is situate, and the County Auditor shall charge the company with taxes thereon, at the same rates as other property in the same localities; and if such agent or agents refuse or neglect to make such return, the County Auditor shall ascertain the amount of such gross receipts and value of property, add fifty per cent. thereto as penalty, and charge such company with taxes thereon, at the same rates charged other property at the several localities where such property may be situate and such agencies located.

Express and Telegraph Companies, having principal office out of State, make returns in form required by State Auditor.

Ib., 36, § 22.

SEC. 25. All returns required by this Chapter to be made by express and telegraph companies, having their principal offices out of this State, shall be made in such form as the State Auditor shall prescribe; and the State Auditor is authorized to require answers, under oath, to any questions he may put to the principal, or any other agent, of any of said companies in this State, and to examine any of such agents, under oath, relative to the property and affairs of such companies, and the management thereof, which oath he may administer; and, if any such agent shall refuse to submit to such examination, or refuse or neglect to answer any such questions, he shall be deemed guilty of contempt of the State Auditor, and the State Auditor may certify the fact to the Court of General Sessions of any County of this State, which shall issue a warrant for the arrest of such agent, in the name of the State of South Carolina, directed to the Sheriff of such County, who shall arrest such agent anywhere in this State, and take him before said Court of General Sessions, and, upon hearing and conviction, such agent shall be fined by said Court in any sum not exceeding five hundred dollars and costs, and be confined in the jail of the County where tried until such fine be paid, and answers be given to all such questions as the State Auditor may propound to him.

Punishment for failure to answer questions of Auditor.

Insurance Companies.

Foreign Insurance ag'ts shall make returns.

Ib., 37, § 23; 1871, XIV, 620, ¶ 6.

SEC. 26. Each agent in this State of any insurance company organized under the laws of any other State or country, and doing business in this State, shall, annually, in the month of July, or before twentieth of August, return to the Auditor of the County in which such agency is located a sworn statement of the gross receipts of such agency for the year ending on the first day of that month, including all notes, accounts and other things received or agreed upon as a compensation for insurance at such agency, together with all the value of any personal property of said company situate at such agency; and the company shall be charged with taxes, at the place of said agency, on the amount so returned; and the agent shall also be personally responsible for such taxes, and may

Agents personally responsible for taxes.

retain in his hands a sufficient amount of the company's assets to pay the same, unless the same shall be paid by the company.

State Insurance Companies to make returns where principal office is.
Ib., § 26, (A.)

SEC. 27. Every insurance company, organized under the laws of this State, shall return all its personal property, moneys, credits, (including notes taken on subscriptions of stock,) investments in bonds, stocks, securities and assets of every kind for taxation, at the place where its principal office is located.

Companies and Corporations.

Corporations and companies owning property in and out of State to return only property in the State for taxation.
Ib., § 24.

SEC. 28. Any company or corporation, organized under the laws of this State, and owning property in any other State or country, as well as in this State, shall not be required to return its capital for taxation in this State, but shall return such property as it owns in this State, and such proportion of the value of its other property as, if owned by individual residents of this State, would be taxable in this State; and if such return be made by such company, the shareholders therein shall not be required to return their shares for taxation.

Having no property in the State, not to return for taxation.
Ib., § 25.

SEC. 29. A corporation organized under the laws of this State, but owning no property in this State, shall not be required to return its capital for taxation in this State.

Companies and corporations not specially provided for to make returns like individuals.
Ib., § 26, (B.)

SEC. 30. All companies and corporations, whether organized under the laws of this State or not, the manner of listing whose personal property is not otherwise specifically provided for by law, shall list for taxation all their personal property and effects at the same time, in the same manner and in the same localities as individuals are required to list similar property and effects for taxation.

Companies under joint charters of this and another State, how taxed.
Ib., § 27.

SEC. 31. Any company incorporated under a joint charter granted by this and some other State or States, and the manner of taxing which, or the amount upon which it shall be taxed, or the specific proportion of its capital or property upon which taxes shall be assessed in South Carolina is prescribed or fixed in its charter, shall be assessed for taxation, and taxed as prescribed in its charter until otherwise legally provided.

Banks and Banking Associations.

Bank stock to be listed at true value in money, and taxed where located.
Ib., § 28.

SEC. 32. All shares of the stockholders in any bank or banking association, located in this State, whether now or hereafter incorporated or organized under the laws of this State or of the United States, shall be listed at their true value in money, and taxed in the city, ward, town or incorporated village where such bank is located, and not elsewhere.

Real estate of banks taxed where located.
Ib., 58, § 29.

SEC. 33. The real estate of any such bank or banking association shall be taxed in the place where the same may be located, the same as the real estate of individuals.

SEC. 34. There shall, at all times, be kept in the office where the business of such bank or banking association is transacted, a full and correct list of the names and residences of the stockholders therein, and the number of shares held by each, which shall be at all times, during business hours, open to the inspection of all officers who are, or may be, authorized to list or assess the value of such shares for taxation.

Banks shall keep a list of stockholders and residence of each, to be open to inspection of revenue officers.

Ib., § 30.

SEC. 35. It shall be the duty of the President and Cashier of every such bank or banking association, between the first of July and twentieth of August, annually, to make out and return, under oath, to the Auditor of the County in which such bank or banking association may be located, a full statement of the names and residences of the stockholders therein, with the number of shares held by each, and the actual value in money of such shares, together with a description of the real estate owned by said bank.

President and Cashier of bank to return to County Auditor names and residences of stockholders.

Ib., § 31; 1871, XIV, 620, ¶ 6.

SEC. 36. The Auditor of the County in which any such bank or banking association may be located, upon receiving the return provided for in the thirty-fifth Section of this Chapter, shall deduct from the actual total value of the shares in any such bank or banking association, the appraised value of the real estate owned by such bank or banking association, as the same stands assessed on the duplicate, and the remainder of the total value of such shares shall be entered on the duplicate of the County, in the names of the owners thereof, in amounts proportioned to the number of shares owned by each, as returned on said sworn statement, and be charged with taxes at the same rate as charged upon the value of other personal property, at the place where such bank or banking association is located.

County Auditor to deduct from total value of stock value of real estate of bank and tax remainder.

Ib., § 32.

SEC. 37. Any taxes assessed on any such shares of stock, or the value thereof, in manner aforesaid, shall be and remain a lien on such shares from the first day of July, in each year, until such taxes are paid; and, in case of the non-payment of such taxes, at the time required by law, by any shareholder, and after notice received of the County Treasurer of the non-payment of such taxes, it shall be unlawful for the Cashier, or other officer of such bank or banking association, to transfer, or permit to be transferred, the whole, or any portion, of said stock, until the delinquent taxes thereon, together with the costs and penalties, shall have been paid in full; and no dividend shall be paid on any stock so delinquent so long as such taxes, penalties and costs, or any part thereof, remain due or unpaid.

Taxes assessed on bank stock to remain a lien till paid. After notice not transferable till taxes paid.

Ib., § 33; 1871, 620, ¶ 7.

SEC. 38. It shall be lawful for any such bank or banking association to pay to the Treasurer of the County in which such bank or banking association may be located the taxes that may be assessed upon its shares, as aforesaid, in the hands of its shareholders, respectively, and deduct the same from any dividends that may be due, or may thereafter become due, on any such shares, or deduct the same from any funds in its possession belonging to any shareholder, as aforesaid.

Bank may pay taxes on shares.

Ib., § 34.

If stock not returned to County Auditor he shall examine books and persons.

Ib., 39, § 36.

SEC. 39. If any bank or banking association shall fail to make out and furnish to the County Auditor the statement required by the 35th Section of this Chapter, within the time required herein, it shall be the duty of said Auditor to examine the books of said bank or banking association; also, to examine any officer or agent thereof, under oath, together with such other persons as he may deem proper, and make out the statement required by said 35th Section, and enter the value of said shares on the duplicate for taxation. Any bank officer failing to make out and furnish to the County Auditor the statement, or willfully making a false statement, as required in the 35th Section of this Chapter, shall be liable to a fine not exceeding one hundred dollars, together with all costs and other expenses incurred by the Auditor, or other proper officer, in obtaining such statement aforesaid.

Penalty for failing to make return to County Auditor.

Banks and bankers to make and return statement to County Auditor, from which assessment to be made.

Ib., § 37; 1871, XIV, 620, 6 s.

SEC. 40. All unincorporated banks and bankers shall, annually, between the first of July and thirtieth of August, make out and return to the Auditor of the proper County, under oath of the owner or principal officer or manager thereof, a statement, setting forth:

1st. The average amount of notes and bills receivable discounted or purchased in the course of business by such unincorporated bank, banker or bankers, and considered good and collectable.

2d. The average amount of accounts receivable.

3d. The average amount of cash and cash items in possession or in transit.

4th. The average amount of all kinds of stocks, bonds, or evidences of indebtedness held as investment, or in any way representing assets.

5th. The average amount of real estate, at its assessed value for taxation.

6th. The average amount of all deposits made with them by other parties.

7th. The average amount of accounts payable, exclusive of current deposit accounts.

8th. The average amount of Government and other securities, specifying the kind that are exempt from taxation.

9th. The amount of capital paid in, or employed in such banking business, together with the number of shares or proportional interest each shareholder or partner has in such association or partnership.

From the aggregate sum of the first five items above enumerated, the said Auditor shall deduct the aggregate sum of the fifth, sixth, seventh and eighth items, and the remainder thus obtained shall be entered on the duplicate of the County in the name of such bank, banker or bankers, and taxes thereon shall be assessed and paid, the same as is provided for other property as assessed and taxed in the same city, ward, town or incorporated village.

SEC. 41. The average provided for in the preceding Section shall be obtained by adding together the amounts of each item above specified, owned by or standing on the books of such bank, banker or bankers, on the first day of each month of the year ending the last day of June in the year in which the return is made, and dividing the same by the number of months in the year: *Provided*, That in cases where such bank, banker or bankers commenced business during the preceding year, the division shall be made by the number of months elapsed after the commencement of such business: *Provided*, That all fractions of a month shall be counted as a month.

Average to be obtained by adding amounts and dividing by number of months.

Ib., § 38; 1871, XIV, 620, ¶ 9.

SEC. 42. Every company, association or person not incorporated under any law of this State, or of the United States, for banking purposes, who shall keep an office or other place of business, and engage in the business of lending money, receiving money on deposit, buying and selling bullion, bills of exchange, notes, bonds, stocks, or other evidences of indebtedness, with a view to profit, shall be deemed a bank, banker or bankers, within the meaning of the fortieth and forty-first Sections of this Chapter.

What shall constitute a bank, banker or bankers.

Ib., 40, § 39.

SEC. 43. The County Auditor shall have the same powers to enforce correct returns from bank officers and bankers, to examine witnesses and enforce their attendance, and have the same aid of the Court of General Sessions of the County, as is provided by law in cases where individuals fail to list their property for taxation, or are suspected of having made false returns; and in all cases of failure to make returns under this Chapter, or in a case of a false return, by any unincorporated bank, banker or bankers, the Auditor shall ascertain the true amount, as near as may be, add fifty per cent. penalty thereto, and charge the party or parties with the taxes on the amount so ascertained by him, with the penalty aforesaid; but in cases of unintentional mistake in making the return, the true amount only shall be charged against the parties, without penalty.

Power of County Auditor to enforce returns.

County Auditor to have same power in reference to bankers as individuals, &c.

Ib., 40.

Penalty for false returns.

Pawnbrokers and Miscellaneous Provisions.

SEC. 44. Every pawnbroker, person, or company, engaged in the business of receiving property on pledge, or as security for money or other thing advanced to the pawner or pledger, shall, annually, in the month of July, or before the thirtieth of August, return, under oath, to the Auditor of the County in which his place of business is located, the average monthly value of all property pawned or pledged to him during the year ending July first of the year in which the return shall be made, or, if engaged in the business for less than a year prior to said first day of July, then for such shorter period; and such average shall be ascertained by the rule prescribed in this Chapter for ascertaining the average value of the property of merchants, and taxes charged on such average value as upon other property at the same place.

Pawnbrokers to make returns to the County Auditor.

Ib., § 41; 1871, XIV, 620, ¶ 10; 1877, XIV, 622, § 1.

Persons claiming to be non-property holders required to make oath.

Ib., § 42; 1871, XIV, 623, § 1.

Penalty.

SEC. 45. Any person claiming not to have any property shall, upon the demand of the Auditor, make oath to the fact that he has no property; and, if he refuse to make such oath, he shall be deemed guilty of contempt of the Auditor, and, upon complaint of such Auditor to the Court of General Sessions of the County, shall be arrested and confined in the jail of the County until he answers such questions, under oath, as may be propounded to him by such Auditor, and pay the costs of the proceeding.

Proceeds of mines to be taxed.

Ib., § 44.

SEC. 46. The proceeds of mines and mining claims shall be assessed and subject to taxation.

State Auditor to prescribe forms of returns and of the oath to be made thereto.

Ib., § 45; 1871, XIV, 623-4, §§ 1, 2.

SEC. 47. The Auditor of State shall prescribe the forms of all returns of taxation, and of the oath that shall be made thereto, and transmit the same to the several County Auditors, who shall cause a sufficient number thereof to be printed and distributed to their assistants; and any return made in any way materially varying therefrom shall not be regarded as a return.

County Auditors to ascertain the value of property of persons who do not make a statement.

Ib., § 46; 1871, XIV, 623, § 1.

SEC. 48. If any person shall refuse or neglect to make out and deliver to the Auditor a statement of personal property, as provided by this Chapter, or shall refuse or neglect to take and subscribe an oath as to the truth of such statement, or any part thereof, or in case of the sickness or absence of such person, the Auditor shall proceed to ascertain, as near as may be, and make up and return, a statement of the personal property, and the value thereof, with which such person shall be charged for taxation, according to the provisions of this Chapter; and to enable such Auditor to make up such statement, he is authorized to examine any person or persons, under oath, and to ascertain, from general reputation and his own knowledge of facts, the character and value of the personal property of the person thus absent, or sick, or refusing or neglecting to list or swear; and said Auditor shall return the lists so made up by him endorsed: "Refused to list," or "Refused to swear," or "Absent," or "Sick," as the case may be, and in his return, in tabular form, shall write the same words opposite the names of each of the persons so refusing or neglecting to list or swear, or absent, or sick.

Persons failing to list property, the value thereof shall be added to list of next year with fifty per cent. penalty.

Ib., § 47.

SEC. 49. If any person shall fail to list the personal property he is required by law to list in any one year, and the same escapes taxation for that year, the value thereof shall be charged against him for taxation in any subsequent year, with fifty per cent. penalty added thereto, and the taxes and penalty collected as in other cases.

All real and personal property to be valued at its true value in money. To be determined by selling price.

Ib., § 48.

SEC. 50. All real and personal property shall be valued for taxation at its true value in money, which, in all cases not otherwise specially provided for in this Chapter, shall be held to be the usual selling price of similar property at the place where the return is to be made; and if there be no usual selling price, then at what is honestly believed could be obtained for the same, at a fair sale, at the place aforesaid; but each parcel of real property shall be separately appraised, without reference to the value of any growing crops thereon.

Money, bank bills & other bills lawfully circulating as money valued at par value. How special valuations to be made.

Ib., § 49.

SEC. 51. The following articles of personal property shall be valued for taxation as follows, to wit: Money, bank bills, and other bills lawfully circulating as money, at the par value thereof; credits, at the amount payable on the face of the contract, instrument, or account, unless the principal be payable at a future time without interest, then, at the sum payable, less the lawful interest thereon, for any term of credit not exceeding one year; contracts for the delivery of specific articles, at the usual selling price of such articles at the time of listing; leasehold estates held for any definite term, at the yearly value thereof to the lessee; annuities, at the yearly value thereof to the owner at the time of listing. All leasehold estates, held on perpetual lease, or for a term certain, renewable forever at the option of the lessee, shall be valued at the full price of the land, and continue to be taxed at such value to the end of the term. When the fee of the soil in any tract or lot of land is in one person, and right to any minerals therein or structures thereon in another, the proceeds of the minerals and said structures shall be valued and taxed as personal property, to the owners thereof respectively.

Assessments of personal property, and new valuations of real property to be made between second Monday of July and second Monday of August, annually. Returns to be made.

Ib., § 50; 1871; XIV, 620, ¶ 11, 1871, XIV, 622, § 1.

SEC. 52. The assessment of all personal property, and the valuation of all lands, lots and new structures, which have not previously been valued and entered on the duplicate for taxation, shall be made between the second Monday of July and the second Monday of August, annually; and the Auditor shall, on or before the third Monday of July, deliver to or leave at the residence or place of business of each person within his County, a printed form of statement or return for taxation, with the proper form of oath attached thereto, and shall, at the time he delivers such forms, receive from such person the statement of property for taxation required by this Chapter, verified by the oath of such person, if desired so to do at that time, by such person; but if the person be not ready nor desire to make such statement at the time of receiving such forms, he shall make up and deliver the statement to the Auditor, on or before the first Monday of August of the year he received the forms, and in case of failure so to do shall be held to have neglected to list, and shall be assessed and returned by the Auditor accordingly; and if the Auditor shall fail to deliver the forms aforesaid to any person, such person shall not thereby be excused from listing his property for taxation; but in such case, if he make and swear to his statement, and deliver the same to the Auditor at any time before the second Monday of August of the year in which the return is required, the Auditor shall not return him as neglecting to list.

County Auditors shall make alphabetical lists of the names of all persons to whom forms are delivered. Statement of new structures.

Ib., § 51; 1871, XIV, 620, ¶ 12; 1871, XIV, 622, § 1.

SEC. 53. Each Auditor shall, at the time he delivers the forms mentioned in the preceding Section, enter in a book, to be provided for that purpose, an alphabetical list of the names of all persons, companies and corporations in his County, as the case may be, designating the section of land or street, and number, as near as may be, of the residence or place of business of such person, company or corporation, which shall be preserved in his office and handed over to his successor, and he shall enter therein a statement of all new structures erected in his County of the

value of one hundred dollars or more, at any time during the then current year, commencing on the first day of July, and of all old structures destroyed during the same year, of the value of one hundred dollars or more, and a description of the land or lot on which such structures were respectively erected or destroyed, with the name of the owner of each, and such other things as may be required by the Auditor of State.

County Auditors shall make lists of property owners, and enter value of property taxable, &c.

Ib., § 52; 1871, XIV, 620, § 13; 1871, XIV, 623, § 1.

SEC. 54. Each Auditor shall, on or before the twentieth day of August, annually, make out, in tabular form and alphabetical order, a list of the names of the several persons, companies and corporations in whose names any personal property shall have been listed, giving the first Christian name of the several persons; and he shall enter separately, in appropriate columns, opposite each name, the aggregate value of the several species of property mentioned in the tenth Section of this Chapter, making separate lists of the property listed as taxable in incorporated villages, cities and wards, and that listed as taxable out of cities, wards and incorporated villages, all of which columns shall be accurately added up and footed; and, at the same time, file and preserve in his office statements of property listed by him, or received by him from others.

County Auditors annually, when taking list of personal property, shall take list of real property not before listed. Additions and deductions to be made to lists.

Ib., § 53; 1871, XIV, 623, § 1.

SEC. 55. Each Auditor shall, annually, at the time of taking the list of personal property, also take a list of all real property in the County subject to taxation, which shall not have been previously listed; and of all new structures, of the value of one hundred dollars or more, not previously listed; and of all old structures, of the value of one hundred dollars or more, which were destroyed during the previous year, and affix a value thereto, with a description of the land or lot on which the same was or is situate, endorse his affidavit thereon that the same is correct, that the valuations therein stated have been made according to the rules prescribed by this Chapter, and return the same with the names of the owners, respectively; and, if the owner of any such new structure shall be the owner of the land on which it is situate, or of a permanent leasehold estate therein, the County Auditor shall add to, or deduct from, the value of the land or lease, as the case may be, as the same may stand on the duplicate, the value of such structure so returned. And, when required by the Auditor of State, the County Auditor shall return to the Auditor of State the value of all such structures: *Provided*, That the Auditor shall not deduct any greater amount for the destruction of any structure than was previously charged for the same on the duplicate.

County Auditor to state in column of remarks the amount he believes should be added to list of tax payer. Duty after return made as to property not returned.

Ib., § 54; 1871, XIV, 623, § 1.

SEC. 56. It shall be the duty of each Auditor to state, in the column of remarks, opposite each tax payer's name, in the return made by him, any amount which he believes ought to be added to the valuation of the property listed by such tax payer, his agent or other person. It shall also be his duty, at any time after his return, if he ascertain that any personal property in his County has not been listed, to list the same, and make return thereof, with the valuation thereof as fixed by the owner or himself, and the name of the owner or person to whom it is taxable, and

the Auditor shall charge the same on the duplicate for taxation, adding fifty per cent. to the value, as returned, as penalty.

Form of oath for County Auditors to take and attach to return of personal property.

Ib., § 57; 1871, XIV, 623, § 1.

SEC. 57. Each Auditor shall take and subscribe an oath, which shall be attached to the return of personal property he is required to make by this Chapter, in the following form: "I, ——— ———, Auditor of the County of ———, State of South Carolina, do solemnly swear that the foregoing return contains a true statement of all personal property listed by myself or others for taxation in said ——— ———, with the valuations thereof, as sworn by others and ascertained by myself, for the present year; that I have diligently endeavored to ascertain and cause all the personal and taxable property in said ——— ——— to be listed; and, so far as I know and believe, all of said property (except such as is otherwise designated in said return) is valued in said return at the price for which it would sell at fair private sale; that I have not knowingly omitted to furnish any person required to list property in said ——— ——— with the proper form for making the same; nor in any way connived at any violation of the tax laws of this State." And such Auditor shall not be entitled to or receive any compensation for his services, until he takes and subscribes such oath; nor until he makes his return of real estate and new structures, with the valuations thereof, under oath, as required by this Chapter.

Person, company or corporation commencing business after 1st of July, the capital of which shall not have been previously listed, to make return in thirty days.

Ib., 41, § 7; 1871, XIV, 620, § 14.

SEC. 58. Any person, company or corporation, commencing any business in any County of this State, after the first day of July, in any year, the capital or personal property employed in which shall not have been previously listed for taxation in said County for such year, shall, within thirty days after commencing such business, report to the Auditor of the County, under oath, the average amount of the capital intended to be employed in such business, from the time of its commencement to the first day of July next ensuing; and, upon making satisfactory proof to said Auditor, that such capital or property has been regularly listed for taxation in some other County in this State, said Auditor shall file report and proofs in his office, and give to the party a certificate that he or they have complied with the provisions of this Section, and are not liable to taxation in his County on such capital or property for the then current fiscal year. But if he or they shall not satisfactorily prove that such capital or property has been previously listed for taxation in some County of this State, said County Auditor shall charge him or them on his duplicate with such proportion of all taxes levied on others upon similar capital or property, at the place of the business, as the time from the commencement of the business to the ensuing first day of July bears to one year.

County Auditors to ascertain all persons commencing business after 1st July, annually.

Ib., § 57; 1871, XIV, 620, § 14; 1871, XIV, 623, § 1.

SEC. 59. It shall be the duty of each County Auditor to ascertain the names of all persons commencing any business in his County after the first day of July, annually, whose capital or property employed in such business was not listed for taxation in his County for the then current fiscal year.

Penalty for failing to report commencement of business to County Auditor.

Ib., § 58; 1871, XIV, 620, ¶ 14.

SEC. 60. If any person, company or corporation shall commence any business in any County of this State after the first day of July, in any year, the capital or property employed in which shall not have been previously listed for taxation in said County, and shall not, within thirty days thereafter, make such report to the Auditor of said County as is required in the fifty-eighth Section of this Chapter, he or they shall forfeit and pay the sum of one hundred dollars, which shall be collected, by civil action, in the name of the County Commissioners, and paid into the County Treasury, for the exclusive benefit of the County. And process in such case may issue out of the Court of Common Pleas of the County in which such business was commenced, directed to the proper officer, and be served in any County of this State.

County Auditor to make out correct descriptions of each tract or lot of real property in his County. Owners required to furnish same.

Ib., 45, § 61; 1871, XIV, 623, § 1.

SEC. 61. It shall be the duty of each County Auditor to make out, from the maps and descriptions in his possession, and from such other sources of information as shall be in his power, a correct and pertinent description of each tract and lot of real property in his County; and, when he shall deem it necessary to obtain an accurate description of any separate tract or lot in his district, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession; and if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish a satisfactory description of such parcel of real property to such Auditor, he may employ a competent surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein; and, to the expense of such survey, the Auditor of the County shall add the tax assessed upon such real property, and it shall be collected by the Treasurer of the County with such tax, and, when collected, shall be paid, on demand, to the person to whom the same is due; and he shall, in all cases, from actual view, and from the best sources of information within his reach, determine, as near as practicable, the true value of each separate tract and lot of real property in his County, according to the rules prescribed by law for valuing real property; and he shall note in his plat-book, separately, the value of all houses, mills, and other buildings, which exceed one hundred dollars in value, or any tract of land, city, village or town lot; which shall be carried out as a part of the value of such tract or lot; he shall also enter on his plat-book the number of acres of arable or plow land, the number of acres of meadow and pasture land, and the number of acres of wood and uncultivated land, in each tract, as near as may be.

County Auditor authorized to enter buildings, &c., to ascertain value.

Ib., § 62; 1871, XIV, 623, § 1.

SEC. 62. For the purpose of enabling the Auditor to determine the value of buildings and other improvements, he is hereby required to enter, and fully to examine all buildings and structures, of whatever kind, which are not, by law, expressly exempted from taxation.

County Auditor to make return, in tabular form, containing names of persons and corporations

SEC. 63. Each Auditor shall, as often as the General Assembly shall, by Joint Resolution, direct, make out a return in tabular form, contained in a book to be furnished by said Auditor, of the amount, description and value of the real property subject to be listed for taxation in his County, which return shall contain:

1st. The name of the several persons, companies or corporations in whose name the several tracts of real property, other than town property, in each township within his County shall have been listed; and in appropriate columns, opposite each name, the description of each tract, designating the number of acres, the number of the section, and the part thereof, and of the township or survey, listed in such name, and the value of each separate tract, as determined by the said Auditor.

owning property.

Ib., § 63; 1870, XIV, 366, § 1; 1871, XIV, 620, § 15; 1871, XIV, 623, § 1.

Value of property.

2d. The names of the several persons, companies or corporations in whose names the several lots of real property in each town, city and village in his County shall have been listed, and in the appropriate columns, opposite each name, the description of each lot, and the value thereof, as determined by the said Auditor, and such description shall designate the town, city or village, the number of lot, and the part thereof; and if a part of a lot is listed, it shall state number of feet along the principal street on which it abuts. If the name of the owner of any tract of land or lot shall be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot.

SEC. 64. The Auditor, at the time of making the assessments of other real estate for taxation, shall enter in a separate list pertinent descriptions of the real estate exempt from taxation by law, with the valuation thereof made by himself, determined by the rules prescribed by law, and designating the owner of each several parcel.

County Auditor to enter in list a description of real estate not taxed.

Ib., 46, § 64; 1871, XIV, 621, § 1.

Boards of Equalization.

SEC. 65. The County Auditor, the County Treasurer, the County Commissioners, or a majority of them, shall form a County Board for the equalization of the real property of their County, with the exception of the real property in the city of Charleston, which shall be equalized by a Special Board, as hereinafter provided. They shall meet as often as the General Assembly shall, by Joint Resolution, direct, at the Auditor's office, in the several Counties, when the County Auditor shall lay before them the returns of the real property made by him, with the additions he shall have made thereto; and having each taken an oath, fairly and impartially to equalize the value of the real estate of such County, according to the provisions of this Chapter, they shall immediately proceed to equalize such valuation, so that each tract or lot shall be entered on the tax list at its true value; and for this purpose they shall observe the following rules:

A County Board of Equalization.

Ib., § 65; 1871, XIV, 620, § 16; 1871, XIV, 623, § 1.

A Special Board for city of Charleston.

Equalization of values.

1st. They shall raise the valuation of such tracts and lots of real property as, in their opinion, have been returned below their true value, to such price or sum as they may believe to be the true value thereof.

Raising values.

2d. They shall reduce the valuation of such tracts and lots as, in their opinion, have been returned above their true value, as compared with the average valuation of the real property of such County, having due regard to their relative situation, quality of soil, improvement, natural and artificial advantages possessed by each tract or lot.

Reducing values.

Aggregate value not reduced.

3d. They shall not reduce the aggregate value of the real property of the County below the aggregate value thereof, as returned by the County Auditor, with the addition made thereto by said Auditor, as hereinbefore required. The County Auditor shall keep an accurate journal or record of the proceedings and orders of said Board.

Record of proceedings.

County Auditor to make return to State Auditor before 3d of September of abstract of real property—contain what.

Ib., § 66; 1870, XIV, 386, § 1; 1871, XIV, 620, ¶ 17; 1871, XIV, 623, § 1.

SEC. 66. Each County Auditor shall, on or before the thirtieth of September, one thousand eight hundred and seventy-one, and on the same day in each year thereafter, make out and transmit to the Auditor of State and the County Commissioners, an abstract of the real property of each District in his County, in which he shall set forth:

1st. The number of acres, exclusive of town lots, returned by said Auditor, with such additions as shall have been made thereto.

2d. The aggregate value of such real property, other than town lots, as returned by said Auditor, inclusive of such additions as shall have been made thereto under the provisions of this Chapter.

3d. The aggregate value of the real property in each town, city and village in his County, as returned by said Auditor, with such additions as shall have been made thereto.

State Board of Equalization to consist of one member from each Congressional District, elected in 1873, and every fifth year thereafter. Governor to fill vacancies. Duties and powers.

Ib., 47, § 57; 1870, XIV, 386, § 1; 1871, XIV, 620, ¶ 18; 1871, XIV, 623, § 1.

SEC. 67. The State Board of Equalization shall consist of one member from each Congressional District of the State, all of whom shall have the qualification of electors; and the qualified electors of each Congressional District shall, at the general election in the year one thousand eight hundred and seventy-three, and on the same day in every fifth year thereafter, elect persons to serve as members of such Board of Equalization, in accordance with the provisions of this Section; and the returns of the poll books and certificate of election shall be governed by the law regulating the election of Representatives to Congress: and, in case of vacancy in such office, either by death, resignation, or otherwise, the Governor of the State shall have the power to appoint a person, who shall be a resident elector of the district so vacated, to fill such vacancy, as soon as he shall be informed thereof. The Governor, Secretary and Auditor of State shall, by virtue of their offices, be members of this Board. The said Board shall meet at Columbia on or before the fifth of October, one thousand eight hundred and seventy-three, and on the same day in every fifth year thereafter, and the members thereof shall each take an oath or affirmation that he will, to the best of his knowledge and ability, so far as the duty devolves on him, equalize the valuation of real property among the several Counties, towns, cities and villages in the State, according to the rules prescribed by this Chapter for valuing and equalizing the value of real property; and having received from the Auditor of the State the abstracts of real property transmitted to him by the several County Auditors, said Board shall proceed to equalize the same among the several towns, cities, villages and Counties in the State, in the manner hereinafter prescribed:

1st. They shall add to the aggregate value of the real property of every County which they shall believe to be valued below its true value

in money, such per centum, in each case, as will raise the same to its true value in money.

2d. They shall deduct from the aggregate valuation of the real property of every County which they shall believe to be valued above its true value in money, such per centum, in each case, as will reduce the same to its true value in money.

3d. If they believe that right and justice require the valuation of the real property of any town, city or village in any County, or of the real property of such County not in towns, cities or villages, to be raised or to be reduced, without raising or reducing the other real property of such County, or without raising or reducing it in the same ratio, they may, in every such case, add to or take from the valuation of any one or more of such towns, cities or villages, or of property not in towns, cities or villages, such per centum as they believe will raise or reduce the same to its true value in money.

4th. They shall not reduce the aggregate value of all the real property of the State, as returned by the County Auditors, below the aggregate value of said property, as returned by said Auditors.

5th. Said Board shall keep a full account of their proceedings and orders.

County Board of Equalization to be composed of County Commissioners, County Auditor and County Treasurer. Powers and duties.

Ib., 48, § 68; 1870, XIV, 366, § 1; 1871, XIV, 620, § 9; 1871, XIV, 623, § 1.

SEC. 68. There shall be an annual County Board for the equalization of the real and personal property, moneys and credits in each County, exclusive of the City of Charleston, to be composed of the County Commissioners, County Auditor and County Treasurer, who shall meet for that purpose at the Auditor's office in each County, on the second Monday of September annually. Said Board shall have the power to hear complaints, and to equalize the valuation of all real and personal property, moneys and credits within the County, and shall be governed by the rules prescribed in the sixty-fifth Section of this Chapter, for the government of County Boards for the equalization of real property: *Provided*, That said Board shall not reduce the value of the real property of the County below the aggregate value thereof, as fixed by the State Board of Equalization, nor below its aggregate value on the duplicate of the preceding year, to which shall be added the value of all new entries and new structures, over the value of those destroyed, as returned by the County Auditor for the current year.

Proviso.

Special Board of Equalization for city of Charleston. Powers and duties.

Ib., § 69; 1870, XIV, 366, § 1; 1871, XIV, 629, § 20.

SEC. 69. There shall be a Special Board for the equalization of the real and personal property, moneys and credits in the city of Charleston, to be composed of the County Auditor and six citizens of said city, to be appointed by the City Council of said city, which Board shall meet annually, at the Auditor's office of said County, on the first Monday in September, and shall have power to equalize the value of the real estate and personal property, moneys and credits within said city, and shall be governed by the rules, provisions and limitations prescribed for the government of annual County Boards for the equalization of real and per-

sonal property, moneys and credits; but said Board shall not continue its sessions more than two weeks in one year.

County Auditors to lay valuation before Boards of Equalization.

Ib., § 70; 1871, XIV, 623, § 1.

Shall keep a journal of proceedings.

Powers of City Boards of Equalization.

Powers of the County Boards of Equalization.

SEC. 70. The several County Auditors shall lay before the several annual Boards of Equalization, aforesaid, the valuations of the several tracts and lots of real property in their County or city, as the case may be, as the same was entered on the duplicate of the preceding year, or as fixed by the State Board of Equalization, and of those returned by the said Auditors for the current year, with such maps, returns, lists and abstracts as are in their respective offices; and each shall keep a regular journal of its proceedings, which shall be deposited and kept in the office of the County Auditor. Said City Boards shall have power to equalize the valuations of the several parcels or lots of real property in such city, respectively, by adding to the value thereof in such wards, blocks or other districts therein, which, in their opinion, is too low, and by adding to the value of such several parcels or lots as they may deem too low, and reducing the value thereof in such wards, blocks or other districts as they may deem too high, and by reducing the value of such several parcels or lots as they may deem too high. They shall, also, have power to hear complaints, and equalize the value of the personal property, new entries and new structures in said cities, respectively, returned for taxation the current year, by adding such per centum or amount to the valuations in such wards, or of such individuals, as they may deem equitable and just, and by deducting from the valuations in such wards, or of individuals, such per centum or amount as they may deem equitable and just. And said County Boards shall have power to equalize the valuations of real property in their respective Counties, by adding to the value thereof in such villages, towns and other districts not in the city, as they may deem low, and by adding to the valuations of such several parcels as they may deem too low; also, to reduce the valuations thereof in such villages, towns and other districts, or of individuals, as they may deem too high; nevertheless, the aggregate deductions from the valuations of real estate shall be subject to the limitations prescribed in the sixty-fifth Section of this Chapter; nor shall the aggregate deductions of the valuations of personal property reduce the total value of the personal property in the city or County below that returned by the Auditors.

SEC. 71. The County Auditor shall add to, or deduct from, the value of the real estate or personal property such per centum, in villages, towns, wards, blocks, or other districts, as may be ordered by the Board of Equalization of the city or County, as the case may be, on the duplicate, distributing the same, *pro rata*, to each owner, and shall add to, or deduct from, the valuation of the real or personal property of individuals, companies or corporations, such sum or sums as may be ordered by either of said Boards.

SEC. 72. When the State Board of Equalization shall have completed their equalization of real property among the several Counties, the Au-

ditor of State shall transmit to each County Auditor a statement of the per centum to be added to, or deducted from, the valuation of the real property of his County, specifying the per centum added to, or deducted from, the valuation of the real property in each of the several towns, villages and cities, and of real property not in towns, villages or cities, in case an equal per centum shall not have been added to, or deducted from, each; and the County Auditor shall forthwith proceed to add to, or deduct from, each tract or lot in his County, the required per centum on the valuation thereof as its stands, after having been equalized by the County Board of Equalization, adding any fraction over fifty cents, and deducting any fraction less than fifty cents, so that the valuation of any tract or lot shall not contain any fraction of a dollar, and charge the same, with taxes, upon such equalized value. The State Auditor shall, also, on or before November fifteenth, annually, give notice to each County Auditor of the rates per centum authorized by law to be levied for the various State purposes, which rates, or per centum, shall be levied by the County Auditor on the taxable property of the County, and charged on the duplicate with the taxes required to be levied and collected for other purposes.

State Auditor to transmit statem't to the County Auditors.

Ib., § 72; 1870, XIV, 366, § 1; 1871, XIV, 620, ¶ 21.

County Auditors shall add to or deduct from the per centum on valuation as ordered.

State Auditor to give notice to County Auditors of rate of taxation.

SEC. 73. The Auditor of State shall, from time to time, prepare and transmit to the several County Auditors all such forms and instructions as he may deem necessary to carry into effect the provisions of this Chapter and Chapter XIII, and decide all questions which may arise as to the true construction of the same, or in relation to the duty of any officer under the same; and the forms thus transmitted shall be observed and used by all County, town and municipal officers. The instruction thus given shall de obeyed by, and the decisions thus made shall be binding upon, all County, town and municipal officers.

State Auditor to prepare and transmit forms to all County Auditors These instructions to be obeyed.

Ib., 49, § 73.

SEC. 74. Each County Auditor shall make out, in a book to be prepared for that purpose, in such manner as the Auditor of State shall prescribe, a complete list or schedule of all taxable property in his County, and the value thereof, as equalized, so arranged as that each separate parcel of real property in each district, other than city, village and town property, shall be contained in a line or lines opposite the name of the owner or owners, arranged in numerical or alphabetical order, unless otherwise directed by the Auditor of State, and so that each lot or parcel of real property in cities, villages and towns shall be contained in a line or lines opposite the names of the owners thereof, respectively, arranged in alphabetical order, unless otherwise directed by the Auditor of State. And the value of all personal property shall be set down opposite the names of the owners thereof, respectively; and, if listed by any person other than the owner, for and in the name of the owner, the name of such person, and the character in which he acted, shall also be stated in such list, and separate lists shall be made for each city, village, town and district, arranged in alphabetical order, unless otherwise ordered by the Auditor of State, which list or schedule, made out as aforesaid, shall be retained in the County Auditor's office, and another made

County Auditors shall make schedules of taxable property.

Ib., 50, § 75; 1871, 620, ¶ 22.

Schedule to be delivered to the County Treasurer.

for the County Treasurer, and delivered to him on or before the fifteenth day of November, annually, as his warrant for the collection of the taxes, assessments and penalties charged thereon, each and both of which lists shall be denominated the County duplicate.

County Auditor to determine sums to be levied upon each lot of real property.

Ib., § 76.

SEC. 75. Each County Auditor, after receiving from the Auditor of State, and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, shall forthwith proceed to determine the sums to be levied upon each tract and lot of real property, adding the taxes of any previous year that may have been omitted, and upon the amount of personal property, moneys and credits listed in his County, in the name of each person, company or corporation, which shall be assessed equally on all real and personal property subject to such taxes, and set down in one or more columns, in such manner and form as the Auditor of State shall prescribe; and in all cases where the whole amount of taxes upon the personal property, moneys and credits of any person shall not amount to ten cents, the Auditor shall not enter the same upon the duplicate, if such person has no other taxable property.

As to fractional assessments—what extent and how made.

Ib., § 77.

SEC. 76. The County Auditors shall not be required to assess on the taxable property of their Counties, or of any town, city or incorporated village, or school district therein, for any purpose, nor for all purposes added together, any rate of taxation containing or resulting in any fraction other than a decimal fraction, nor in any fraction less than one-twentieth of a mill; but, if the sum required to be raised for any or all purposes results in a fraction less than one-twentieth of a mill, such fraction shall be dropped; and, if more than one-twentieth and less than one-tenth of a mill, the County Auditor shall add enough thereto to make it one-tenth of a mill, and levy the same accordingly.

County Auditor to enter taxes on duplicate retained in his office—how entered on County Treasurer's duplicate.

Ib., 56, § 78.

SEC. 77. The County Auditor shall enter the taxes on the duplicate, to be retained in his own office, in such number of columns as the Auditor of State shall, from time to time, direct; but on the duplicate for the County Treasurer, he shall enter the taxes against each parcel of real and personal property, on one or more lines, opposite the name of the owner or owners; and, in all other respects, the Auditor of State may prescribe forms for County duplicates, as may seem to him most conducive to the interest and convenience of the public, and County Auditors shall conform thereto.

County Auditor to make record of delinquents.

Ib., § 80; 1871, XIV, 621, ¶ 2.

SEC. 78. Each County Auditor shall, annually, in the month of January, make out and record, in a book to be provided for that purpose, a list of all lands, city, village and town lots returned by the Treasurer delinquent at the preceding settlement, describing such lands and lots as the same were described on the duplicate, and charging thereon the unpaid taxes, penalties and assessments as the same were charged on the

duplicate, and also the taxes and assessments of the current year, and shall certify to the correctness thereof, and sign the same officially.

County Auditors may correct omissions.

Ib., 82; 1871, XIV, 623, § 1.

SEC. 79. If the County Auditor shall, at any time, discover that any real estate or new structure, duly returned and appraised for taxation, has been omitted from the duplicate, he shall immediately charge the same on the duplicate, with the taxes of the current year, and the simple taxes of each preceding year the same may have escaped taxation. And if the owner of any real estate or new structure thereon, subject to taxation, has not reported the same for taxation, according to the requirements of this Chapter, and the same has not been appraised for taxation, the Auditor shall, upon discovery thereof, appraise the same, and, upon making return of such appraisement, shall charge the same upon the duplicate, with the taxes of the then current year, and the taxes of each preceding year it may have escaped taxation, with twenty per cent. penalty upon such taxes of preceding years. And if any real estate shall have been omitted in any return, the Auditor of the County shall appraise the same immediately for taxation, file such appraisement in his office, and charge the same with the taxes of the current year and the simple taxes of the preceding years it may have escaped taxation.

County Auditor to examine persons or corporations suspected of making false returns.

Ib., 52, § 83.

SEC. 80. If the County Auditor shall suspect or be informed that any person or persons, corporation or company, has evaded making a return, or made a false return, of his, her or their personal property for taxation, or have or has not made a full return, or that the valuation returned is less than it should have been, according to the rules prescribed by this Chapter, it shall be his duty, at any time before the settlement with the Treasurer for the year, to notify such party to appear before him at his office, at a time fixed in said notice, together with such other person or persons as said Auditor may desire to examine, and the party, together with any witness called, shall be examined by said Auditor, under oath, (which oath said Auditor is authorized to administer,) touching the personal property, and the value thereof, of such party, and everything which may tend to evince the true amount such party should have returned for taxation.

If a party or witness refuse to appear, to be sworn, or answer, to be deemed guilty of contempt — punishment.

Ib., § 84.

SEC. 81. If any person notified, either as a party or witness, to appear before the County Auditor, as provided for in the preceding Section, shall refuse or neglect to appear before the County Auditor at the time stated in said notice, or shall refuse to be sworn, or refuse to answer any question put to him by said Auditor, touching the matter under examination as aforesaid, he shall be deemed guilty of contempt of said Auditor, and said Auditor shall make complaint thereof to the Court of General Sessions of the County, who shall thereupon issue an attachment against the person complained of, in the name of the State of South Carolina, directed to the Sheriff of the County, who shall arrest such party anywhere he may be found in the State of South Carolina, and take him personally before said Court, and, upon conviction thereof, such party shall be fined for such contempt of the County Auditor, by said Court, in any sum not

exceeding fifty dollars and costs of prosecution, and be confined in the County jail of said County until answers shall be made to all questions which may be propounded to him by said County Auditor, and such fine and costs paid; and when such fine is collected, it shall be paid into the County Treasury to the credit of the County.

If upon examination the County Auditor finds false return made, he shall make true return, and add fifty per cent. as penalty.

Ib., 53, § 85.

SEC. 82. The County Auditor, when he shall deem it necessary, may adjourn the examination provided for in the preceding Section, from time to time; and if he shall find that the party had failed to make any return for taxation, or intentionally made a false return, or intentionally returned his or their property for taxation at less than its fair cash value, he shall determine what amount should have been returned by the party, and add fifty per cent. thereto as penalty, and charge the same, with said penalty, against the party on the duplicate, with the taxes of the current year; but if he shall find the party committed a merely unintentional mistake in any return made, he shall add such amount as he may deem just to such return, and charge the party with the simple taxes thereon, adding witness' fees, if any, and the costs of serving the notice.

Who shall pay expense of examination before Auditor.

Ib., 86; 1871, XIV, 623, § 1.

SEC. 83. If, upon the examination provided for in the eightieth Section of this Chapter, the return made to, or by, the Auditor shall be found to be correct, the expenses of the examination shall be paid by the County Auditor out of the County Treasury; but if it shall be found that the return, as made, was intentionally false, or that no return was made, the Auditor shall pay the expenses of the examination out of the County Treasury, and charge the same to the party on the duplicate, in addition to the penalty provided for such cases; and the amount collected, with the taxes of the party, to re-imburse the Treasury of the County for the expenses paid as aforesaid. But if the return made was unintentionally erroneous, said Auditor shall pay the witnesses' fees and costs of serving the notice out of the County Treasury, charge the same on duplicate to the party, and the same shall be collected and paid into the County Treasury, as aforesaid.

Fees to be allowed for service of summons by Sheriff or Constable.

Ib., § 87.

SEC. 84. The expenses to be allowed upon the examination provided for by the eightieth Section of this Chapter shall be, for serving the notice or notices, the fees allowed to Sheriffs and Constables for serving a summons, and, to witnesses, the same fees allowed to witnesses in suits before a Trial Justice's Court.

County Auditors to add value of all property not returned by owner, and penalty of 50 per cent.

Ib., § 88

SEC. 85. Each County Auditor shall add to the value of all personal property which the owner or other person whose duty it is made, by this Chapter, to list the same, shall have refused or neglected to list, or to the value of which such person shall have refused or neglected to swear, fifty per centum on the value, and charge the same on the duplicate. upon which taxes shall be collected and apportioned to the several funds for which taxes are assessed against such owner *pro rata*, in proportion to the respective levies.

SEC. 86. That whenever any tax payer shall fail to make returns to the Auditor of his County within the time prescribed by law, it shall be the duty of the County Auditor to enter on the tax duplicate, against such tax payer, the property charged to him the previous year, with fifty per cent. penalty added thereto, except in cases of sickness, or absence from the County, when the true amount of property only shall be charged.

Persons failing to make required returns.

1871, XIV, 624, § 3. 2 Bay, 244

Penalty.

SEC. 87. If any person required by this Chapter to list property for taxation shall have been prevented by sickness or absence from giving to the Auditor the statement or return for taxation required, such person or his agent may, at any time prior to the tenth day of September of the year of the assessment, make out and deliver to the County Auditor a statement of the same, sworn to, (which oath the Auditor is authorized to administer,) and shall also make oath before said Auditor that he was sick or absent during the whole time when he should have otherwise listed his property for that year; and, if absent, that such absence was not for the purpose of avoiding the listing of his property. The Auditor shall receive the return made by the absent person, and charge such party with taxes on the duplicate according to the return so made to him.

County Auditor shall receive returns from persons who have been sick or absent.

1868, XIV, 53, § 89; 1871, XIV, 621, ¶ 3; 1871, XIV, 623, § 1.

SEC. 88. Each County Auditor shall correct the valuation of any parcel or lot of real property on which any structures of one hundred dollars or more in value may have been constructed, or on which any structure of like value may have been destroyed, according to the return thereof, made in accordance with the provisions of this Chapter, and assess the tax upon such corrected valuation. Said Auditor shall also correct any errors he may discover in the name of the owner, in the description or quantity of any parcel or lot of real estate, and any clerical errors in his duplicate, or in any return made to his office. He shall also correct any errors in his duplicate when ordered by the Auditor of State; but he shall not reduce any assessment of personal property regularly made and returned to his office, nor make any deduction from the valuation of any tract, lot or parcel of real estate, except such as shall be ordered by the State, County or City Board of Equalization, in conformity with the provisions of this Chapter, or upon the written order of the Auditor of State, which written order shall only be made by the Auditor of State upon a statement of facts submitted to him in writing; and when any personal or real property has been listed, returned or entered for taxation in a wrong locality, the County Auditor shall correct the return or entry, and charge such properey with the taxes in the locality required by the provisions of this Chapter: *Provided*, That any correction made in the duplicate by the County Auditor shall be entered on both the Auditor and Treasurer's duplicate, except that, in case of the reduction of any assessment or tax, the Auditor may furnish the Treasurer with a certificate of such reduction: *And provided, further*, That each County Auditor shall keep a record of all sales of conveyances of real property made in his County, in which he shall enter, in

County Auditor shall correct valuation of real property in cases where structures of one hundred dollars or more in value have been made or destroyed.

Ib., § 90; 1871, XIV, 621, ¶ 4; 1871, XIV, 622, § 1.

Proviso.

columns, the names of the purchaser and seller, the quality of land conveyed, the location and price of the same, and therefrom correct the County duplicates annually; and, for the purpose of carrying out this provision, the Clerks of Courts and Registers of Mesne Conveyances of each County are hereby required to have the endorsement of the County Auditor on each and every deed of conveyance for real property that the same is on record in his office, before the same can be placed on record in the offices of said Clerks of Courts or Registers of Mesne Conveyances, and the said County Auditor shall be entitled to collect a fee of twenty-five cents, for his own use, for making such entry and endorsement.

County Auditor to transmit abstract of duplicate of his County on or before 20th of Nov.

Ib., § 91; 1871, XIV, 621, ¶ 5; 1871, XIV, 623, § 1.

SEC. 89. Each County Auditor shall, annually, on or before November twentieth, make out and transmit, by mail, to the Auditor of State, a complete abstract of the duplicate of his County, which shall state the aggregate value of taxable property, and the total amount of taxes assessed thereon for that year; and he shall, at the same time, also make out and transmit to the Auditor of State an abstract of the number and value of each of the enumerated articles of personal property, the value of merchants' and manufacturers' stock, and the value of all other personal property as returned by him and fixed by the Board or Boards of Equalization; but such abstracts shall be made out in such form and contain such details as the Auditor of State may prescribe.

County Auditor to attend in his office on or before 15th of January, annually, to make settlement with County Treasurer — what settlement shall be: only three causes justify failure to collect taxes.

Ib., § 92; 1870, XIV, 366, § 1; 1871, XIV, 621, ¶ 6.

SEC. 90. Each County Auditor shall attend at his office on or before the fifteenth of January, annually, to make settlement with the Treasurer of his County, and ascertain the amount of taxes, penalties and assessments collected by such Treasurer, and the amount with which such Treasurer is to stand charged on account thereof, and on account of each fund for which a levy was made on the duplicate; and each Auditor shall take, from the duplicate previously put into the hands of said Treasurer for collection, a list of all such taxes, assessments and penalties as such Treasurer has been unable to collect, therein describing the property as described on the duplicate, and shall note thereon, in a marginal column, the several reasons assigned by such Treasurer why such taxes or other charges could not be collected, which list shall be denominated the delinquent list, and which shall be signed and sworn to by the Treasurer before said Auditor; and said Auditor shall record the same in a book, to be provided for that purpose, and transmit an abstract thereof to the Auditor of State, by the County Treasurer, at his next annual settlement with the Auditor of State; and, in making such list, the delinquencies in each district, city, village and town shall be stated separately, and, after deducting the amount of taxes, assessments and penalties so returned delinquent, and the collection fees allowed the Treasurer by law, said Treasurer shall be held liable for the balance of the taxes, assessments and penalties charged on the duplicate: *Provided, however,* That only the following causes shall be assigned by said Treasurer on said delinquent list for not collecting any tax, penalty or assessment, to wit:

1st. That sufficient personal property of the party charged therewith could not be found out of which to make the same.

2d. That property was found, but could not be sold for want of bidders; and,

3d. That such taxes, assessments or penalties were enjoined by a competent Court.

County Auditor to ascertain the true amount collected by the Treasurer on account of each fund and give a statement to Treasurer.

Ib., 55, § 93.

SEC. 91. In making the settlements required by the preceding Section, the County Auditor shall carefully ascertain the true amount collected by the Treasurer on account of the several taxes, penalties and assessments charged on such duplicate, and the amount remaining in the hands of the Treasurer belonging to each fund, and shall give to such Treasurer an official statement of the several sums charged to him, as having been collected by him, for and on account of the several funds. The County Auditor shall also make out and deliver to said Treasurer duplicate certificates, showing the amount charged on the duplicate for the several purposes for which taxes and assessments shall have been levied; also, of the taxes, &c., remaining unpaid, as stated on the delinquent list.

County Auditors may appoint assistants.

1871, XIV, 624, § 2.

Compensation for such assistants — how to be obtained.

SEC. 92. That the various County Auditors are authorized to appoint a sufficient number of assistants to enable them to complete the said assessment within the time fixed by law, and, to defray the expense of making said assessment, the said Auditors shall draw their warrants annually upon the County Treasurers, to be approved by the County Commissioners, for such sums as may be necessary, but not to exceed the following, to wit: The Auditor of Charleston County, two thousand dollars; the Auditors of Richland, Orangeburg, Edgefield, Beaufort, Barnwell, Colleton and Abbeville Counties, one thousand dollars; the Auditors of Chester, Darlington, Fairfield, Greenville, Marion, Sumter and York Counties, eight hundred dollars; the Auditors of Georgetown, Kershaw, Laurens, Lexington, Newberry, Spartanburg and Union Counties, seven hundred dollars; the Auditors of Chesterfield, Clarendon, Marlboro and Williamsburg Counties, six hundred dollars; the Auditors of Anderson, Horry, Lancaster, Oconee and Pickens Counties, five hundred dollars each.

When offices of Auditors shall be open to receive returns.

1871, XIV, 623, § 1.

SEC. 93. It shall be the duty of the County Auditors to receive the returns and make the assessments provided for in this Chapter, within the times prescribed by law, and for this purpose the offices of the County Auditors shall be kept open to receive the returns of tax payers during such times as now, or may be hereafter, fixed by law.

CHAPTER XIII.

Of the Collection of Taxes.

SEC.

1. All taxes, except as otherwise provided, payable annually on the 15th day of January; receipts given.
2. When County Treasurer to keep his office open for reception of taxes.
3. When taxes not paid on or before January 15th, or not paid, with twenty per cent. penalty, on or before February 15th, Treasurer to proceed to collect by distress.
4. When taxes, assessments and penalties against real property are not paid on or before January 15th, a penalty of twenty per cent. shall be added, and if not paid by February 20th, treated as delinquent taxes, and collected as such. When estate may be sold.
5. Notice of taxation to be published by County Treasurer on receipt of tax duplicate from County Auditor, stating rate of taxes for the several purposes.
6. All personal property liable for taxes; County Treasurer or Deputy may distrain, if to be found, and immediately advertise for sale in not less than five nor more than ten days, to pay taxes and assessments due.
7. When real estate is erroneously returned delinquent, and sold, sale to be void; if taxes are illegally assessed and collected, they shall be paid back on demand.
8. When any person charged with taxes complains, in writing, that he is erroneously taxed, the County Treasurer shall report to County Auditor, and he to State Auditor; Treasurer not to proceed by distress till directed by State Auditor.
9. State Auditor authorized to remit penalty for non-payment of taxes in certain cases.
10. Treasurer allowed same fees for distress as Sheriffs.
11. County Treasurer to settle with County Auditor on or before first Tuesday in April, each year, for all taxes, assessments and penalties on duplicate for preceding year; Treasurer responsible for taxes.
12. County Treasurer to present State Auditor and Comptroller General, each, with one of the certificates received of County Auditor, provided for in Chapter XII; to pay forthwith to State Treasurer all moneys belonging to the State; shall pay all moneys collected by him to State Treasurer on the fifteenth day of each month.
13. If chattel tax unpaid at time fixed by law, County Treasurer may distrain property, or proceed by action or proceedings in attachment, same as private individual.
14. How to proceed against non-residents for delinquent chattel tax; fees and distribution of same.
15. All real property returned delinquent, shall be offered for sale on second Tuesday in March.
16. County Auditor to compare delinquent list with duplicate in hands of County Treasurer, on 15th of February, and designate all parcels of real estate delinquent, and advertise same for sale.
17. County Auditor to publish list of delinquent lands weekly for two weeks, between tenth day of February; and first Monday in March, to which list will be attached notice of sale; form of.
18. On first Monday in March, County Treasurer, at his office, shall offer for sale all delinquent lands advertised; sale continued from day to day; who to be purchaser; State to purchase in certain cases; proviso.
19. Land to be re-sold; penalty for failure on the part of the purchaser to make payment.
20. County Auditor to attend delinquent land sale and keep record of sales, and forward copy to State Auditor.
21. Distribution of proceeds of delinquent land sales.
22. If County Auditor, for any cause, omit to publish delinquent list and taxes, assessments and penalties not paid, he shall publish it with delinquent list of succeeding year.
23. Purchasers of land at delinquent land sale to receive certificate from County Auditor on payment of proper amount to Treasurer and County Auditor; certificate, contain what; location of lands.
24. No deed or survey to be made till expiration of two years.
25. Certificates of purchase assignable by endorsement.
26. Land sold at delinquent land sales redeemable at any time within two years.
27. How land sold at delinquent land sale may be redeemed; what must be paid.
28. Application for redemption of land sold for taxes must be made to County Auditor; property, how released.
29. County Auditor, on redemption of land, to publish notice thereof for two weeks.
30. Tenant in common may redeem his individual share of real estate sold at delinquent land sale.
31. The purchaser, or his legal representatives, of delinquent lands, when said lands are redeemed, on surrendering certificate of purchase to Auditor, shall receive order on Treasurer for money deposited.
32. How any person interested may redeem land by consent of purchaser before deed is executed.
33. After lapse of two years from sale of land, County Auditor to execute deed of conveyance to purchaser, if not again delinquent on payment, &c; two tracts in one deed; *prima facie* evidence of title.
34. All land offered for sale at delinquent land sale, and not sold for want of bidders, to be forfeited to the State.
35. County Auditor to keep a record of real estate forfeited to or purchased in behalf of the State; copy sent to State Auditor.
36. County Auditor of any County, where a delinquent land sale is had, to make deeds therefor, though land subsequently transferred to another County.
37. Real estate sold at delinquent land sale to be placed by Auditor in the name of purchaser.
38. The sale of real estate at delinquent land sale not invalid from having been correctly entered on duplicate.
39. If certificate given at delinquent land sale be lost, a deed shall be given same as if not lost.
40. County Auditor to keep minutes of all deeds made pursuant to sales, and minutes of all redemptions.

SEC.
41. Right of tenants in common purchased, purchaser to hold with others as tenants in common.
42. County Treasurer to lease lands bought by State; Attorney General to prescribe form of lease; terms of lease.
43. Right of pre-emption acquired by lessee.
44. Forty acre lots to be sold to highest bidder; terms on which lessee may purchase.
45. Patents to be issued; provision in case of assignment of certificate.
46. County Treasurer to report, annually, lands leased; to account for moneys as for taxes.
47. New structures, when to be listed.
48. Courts shall order taxes paid out of proceeds of real estate sold by order of same.
49. Taxes, assessments and penalties held a debt due the State; to be first lien when to be first paid; County Treasurer may proceed by action against parties.
50. In suits against County Auditor or Treasurer for performing duty under Chapters XII and XIII, where plaintiff succeeds, costs to be paid by fund involved in the action; if State interested, State Auditor to be informed; local or municipal officers made parties; when
51. County Auditor to give State Auditor answer in writing, touching condition and value of real estate, &c.
52. Pay of State Board of Equalization.
53. Pay of City Boards of Equalization.
54. Punishment of County Auditor and County Treasurer for neglect of duty; upon indictment and conviction, fined and imprisoned in the Penitentiary.
55. County Auditors authorized to administer oaths.
56. State Auditor, County Auditor and County Treasurer to be appointed by Governor; bond of Treasurers.
57. State Auditor to number houses, &c., in Charleston; penal offence to remove.
58. Governor may remove Auditors and Treasurers, &c.
59. Default of officer removed to turn over books, &c.; how punished.
60. If Senate not in session, Governor to fill vacancy *pro tem.*
61. Treasurer of Charleston County authorized to appoint three Deputies; duties, pay, bond.
62. Collection of taxes not to be enjoined.
63. In action for recovery of illegal taxes, only amount paid recovered.
64. Attorney General to defend County Treasurer or other officer; when; judgment, how paid.
65. Unpaid taxes levied by the late Provisional Government or under Military Orders to be collected by County Treasurers.
66. Fees for collection of taxes paid, but no *nulla bona* writs.
67. Attorney General to give State Auditor opinion when requested.

SECTION 1. All taxes, except as herein excepted, shall be payable, annually, on or before the fifteenth of January after their assessment, and the several County Treasurers shall collect the same in the manner required by law, and give the receipts therefor to the several parties paying the same, in which the real estate paid on shall be briefly described, and the value of the personal property paid on shall be stated, together with the time such taxes may be payable.

All taxes, except as otherwise provided, payable annually, on or before 5th day of January. Receipt given

1868, XIV, 56, § 95; 1871, XIV, 621, ¶ 8.

SEC. 2. The County Treasurer shall keep his office open for the receipt of taxes from November twentieth to March twentieth.

When County Treasurer to keep his office open for reception of taxes.

Ib., § 96; Ib., ¶ 9.

SEC. 3. When the taxes and assessments charged against any party or property on the duplicate shall not be paid on or before the fifteenth of January, after the assessment thereof, or when the remainder of such taxes and assessments shall not be paid on or before the fifteenth of February next thereafter, together with twenty per cent. penalty on such, remaining unpaid, the County Treasurer shall proceed to collect the same, by distress or otherwise, as may at the time be prescribed by law, together with a penalty of five per cent. on the amount so delinquent, which penalty shall be for the use of the Treasurer, as a compensation for making such collection.

When taxes not paid on or before 15th of January, or not paid with 20 per cent. penalty on or before 15th of February, Treasurer to proceed to collect by distress

Ib., § 97; Ib., ¶ 10.

SEC. 4. When the taxes, assessments and penalties charged against any parcel or lot of real property shall not be paid on or before the fifteenth day of January, in each year, or collected by distress or otherwise, as authorized by this Chapter, a penalty of twenty per cent. thereon shall

When taxes, assessments and penalties against real property are not paid on

or before 15th of January, a penalty of 20 per cent. shall be added; and if said taxes and penalty not paid by 20th of February, treated as delinquent taxes, and collected as such.
When estate may be sold.
Ib., 51, § 79; Ib., 621, § 1.

be added by the County Auditor on the County duplicate; and if the said taxes and penalty shall not be paid on or before the twentieth day of February next thereafter, or collected by distress or otherwise, the penalty and said taxes shall be treated as the delinquent taxes on such real property, to be collected in the same manner that is, or may be, prescribed by law; and if the amount of such delinquent taxes, assessments and penalties shall not be paid on or before the second Tuesday in March of the current year, the delinquent taxes, assessments and penalties of the current year shall be due and collected by the sale of such real estate in the manner that is or may be required by law.

Notice of taxation to be published by County Treasurer on receipt of tax duplicate from County Auditor, stating rate of tax for the several purposes.
Ib., 56, § 98.

SEC. 5. The County Treasurer, immediately upon the receipt of the tax duplicate for the year from the County Auditor, shall cause a notice to be inserted once in two daily newspapers published at the County seat of his County, if two such papers be there published; if not, then in one such paper; and if no daily paper be published at such County seat, then in two weekly papers published at said County seat; but if two such weekly newspapers be not published, then in one such paper; and if no paper is published in the County, then such notice shall be given in such manner as the County Treasurer may direct, stating the total rate per centum of levies for State purposes, and the total rate per centum for all other purposes, on the duplicate of that year; and if any special levies have been made on the property of a school or other district, not affecting an entire County, the total rate of levies in such district shall also be stated in such notice.

All personal property liable for taxes.
At any time after taxes due, according to law, the County Treasurer, or his deputy, may distrain personal property, if to be found, and immediately advertise the same for sale, in not less than five, nor more than ten days, to pay taxes and assessments due.
Ib., § 99.

SEC. 6. All personal property subject to taxation shall be liable to distress and sale for the payment of taxes and assessments; and, at any time after any taxes or assessments shall become due, according to law, the County Treasurer, by himself or deputy, may distrain sufficient personal property of the party against whom such taxes or assessments are charged, if the same can be found in his County, to pay the taxes or assessments so due, with any penalty charged or chargeable thereon, and the costs that may accrue, and shall immediately advertise the same in three of the most public places in the town, or ward, or district in which such property shall be distrained, stating the time and place in such town, ward or district when and where such property will be sold; and, if the taxes, assessments and penalties for which such property was distrained, together with the costs of the proceeding, shall not be paid before the day appointed for such sale, (which shall not be less than five, nor more than ten, days after posting up such notices of sale,) such Treasurer, or his Deputy, shall proceed, at the time and place mentioned in said notices, to sell such property, or so much thereof as may be necessary, at public vendue, to the highest bidder; and if such property, or a sufficient amount thereof, shall not be sold at the time and place aforesaid, such Treasurer shall retain the same in his possession, and advertise and offer the same for sale, in manner aforesaid, from time to time, until the same shall be sold.

SEC. 7. If any taxes charged on any real estate be regularly paid, and such real estate be erroneously returned delinquent, and sold for such taxes, the sale shall be totally void; or if any taxes shall be illegally assessed and collected, when the same shall become known to the County Auditor, he shall, on demand of the party interested, submit the matter to the Auditor of State; and if the Auditor of State approve thereof in writing, the amount paid by the purchaser at such void sale, or the amount so illegally collected, shall be repaid to the party paying the same, out of the County Treasury, on the order of the County Auditor; and so much of said taxes as shall have been paid into the State Treasury shall be refunded to the County Treasury, and the County Auditor shall retain the same in his next annual settlement, and charge the State therewith.

Where taxes are paid on real estate, but such real estate is erroneously returned delinquent, and sold, sale to be void; and if any taxes are illegally assessed and collected, they shall be paid back on demand.

Ib., 51, § 81.

SEC. 8. Whenever any person or persons, charged with taxes upon the books of any County Treasurer in this State, shall state, in writing, to said Treasurer that he, or they, have been erroneously or illegally charged with the same, said County Treasurer shall submit to the County Auditor a full statement of the facts in the case, which statement shall be forwarded to the State Auditor, with such additional information, relating thereto, as the said County Auditor may be able to give; and said County Treasurer shall not be required to proceed against the party or parties so claiming to have been erroneously or illegally charged with taxes, by distress or otherwise, until the State Auditor shall, in writing, direct him so to do.

When any person charged with taxes complains, in writing, that he is erroneously taxed, the County Treasurer shall report to the County Auditor, and he to the State Auditor.

Treasurer not to proceed by distress till directed by the State Auditor.

1870, XIV, 367, § 6.

SEC. 9. That in all cases where the penalty for non-payment of taxes has attached to property held by assignees in bankruptcy, and which could not, or cannot, be sold before the time at which taxes become due; and in all cases where sales of property, for the settlement of estates, ordered by any Court in this State, have not been, and cannot, for want of time, be made in season for the payment of taxes due thereon, the State Auditor, upon proper evidence that the taxes due upon such property have not been, and cannot be paid, until a sale of said property is made, may remit the penalty which by law attaches for non-payment of taxes.

State Auditor authorized to remit penalty for non-payment of taxes in certain cases.

Ib., 366, § 3.

SEC. 10. The Treasurer shall be allowed the same fees and costs for making distress and sale of property for the payment of taxes as are or may be allowed to Sheriffs or Constables for making levy and sale of property on execution, traveling fees to be computed from the seat of justice of the County to the place of making distress.

Treasurer allowed same fees for distress and sale as Sheriffs.

1868, XIV, 57, § 100.

SEC. 11. Each County Treasurer shall, on or before the first Tuesday of April of each year, settle with the Auditor of his County for all taxes, assessments and penalties collected by him on the duplicate of the preceding year, and ascertain the amount with which he shall stand charged on account of such taxes, assessments and penalties; and he shall furnish

County Treasurer to settle with County Auditor on or before first Tuesday in April, each year, for all

taxes, assessments and penalties collected on duplicate for preceding year; Treasurer responsible for taxes.

Ib., § 101; 187, XIV, 621, § 11.

said Auditor the names of all parties against whom taxes, assessments or penalties are charged on said duplicate, from whom he has been unable to collect such taxes, assessments or penalties, and the amounts uncollected; and when such Treasurer has made a list thereof, he shall swear to and sign the same before said Auditor, assigning only such reasons for non-collection as are mentioned in the ninetieth Section of Chapter XII, (and only such amounts shall be inserted in said list as remain uncollected on account of some one of the causes mentioned in said ninetieth Section,) and after deducting his fees and the amount included in said delinquent list, he shall stand charged with the remainder of the taxes, assessments and penalties charged on said duplicate; but if, in making such settlement, the County Treasurer shall stand charged with any tax, assessment or penalty which, in fact, was not paid prior thereto, he may, at any time while remaining in office, collect the same by distress and sale of property, as in other cases of delinquent taxes, or by action in his own name, as for money paid for the use of the party or parties charged with, or bound to, pay said tax, penalty or assessment; and, after going out of office, he may maintain an action in his own name, as aforesaid, for the collection of such tax, penalty or assessment.

County Treasurer to present the State Auditor and Comptroller General, each, with one of the certificates received from Auditor of County.

County Treasurer to pay forthwith to State Treasurer all moneys belonging to State.

Ib., § 102.

SEC. 12. Each County Treasurer shall, within ten days next after each annual settlement with the County Auditor, as required by this Chapter, present to the Auditor of State and Comptroller General, each, one of the duplicate certificates required by the ninety first Section of Chapter XII to be given to him by the County Auditor; he shall also present to the Auditor of State the abstract of the delinquent list required by the ninetieth Section of Chapter XII, to be transmitted to said Auditor of State; and, upon the receipt of the certificate and abstract aforesaid, the Auditor of State shall settle with such County Treasurer for the money in the hands of such Treasurer belonging to the State, and, upon ascertaining the exact sum or sums payable by such Treasurer, shall certify the same to the Comptroller General, specifying in such certificate the amount belonging to each fund, and the total amount to be paid into the State Treasury; and, on receipt of such certificate, the Comptroller General shall issue his certificate, specifying as aforesaid; and said County Treasurer shall forthwith deliver said Comptroller's certificate to the Treasurer of the State, and pay into the State Treasury the full amount of all sums so found to be in his hands belonging to the State, and the Treasurer of State shall give to such County Treasurer triplicate receipts therefor, specifying therein the amount of each fund and the aggregate as stated in said certificates, one of which said County Treasurer shall deliver to the Auditor of State, and one to the Comptroller General: *Provided*, Every County Treasurer shall, on the fifteenth of each month, forward to the State Treasurer all the moneys collected by him for or on account of the State taxes, specifying for and on account of what fund the same was collected, for which triplicate receipts shall be returned to them by the State Treasurer; of said receipts one shall be retained by the County Treasurer, one shall be forwarded by him to the State Auditor, and one

County Treasurer shall pay to State Treasurer all moneys collected by him on the 15th of each month.

to the Comptroller General. The County Treasurer shall, also, on the fifteenth day of each month, notify the Board of County Commissioners the amount of funds collected for and on account of their respective Counties, and the character of such funds.

If a chattel tax unpaid at time fixed by law, County Treasurer may distrain property, or proceed by action or proceedings in attachment, same as private individual

Ib., 58, § 103.

SEC. 13. If any chattel tax shall be unpaid at the time fixed for the payment thereof by this Chapter, or returned delinquent, as authorized by this Chapter, the County Treasurer may not only distrain property for the payment thereof, but may recover the same, with the penalties thereon, by action at law, proceedings in attachment, or other means authorized by law to be used by private individuals in the collection of debts, which action or other proceedings shall be prosecuted in the name of such Treasurer; and if he shall die or go out of office before the termination of such action or proceeding, or the final collection of the money, or any judgment or order therein, his successor or successors may, from time to time, be substituted as plaintiff therein.

How to proceed against non-residents for delinquent chattel tax. Fees and distribution of same.

Ib., § 104.

SEC. 14. If, after the return of any chattel tax by any County Treasurer as delinquent, the County Treasurer shall know or be informed that the party against whom the same is charged resides in some other County in this State, or has property or debts due him therein, it shall be his duty to make out and forward to the Treasurer of such other County a certified statement of the name of the party against whom such taxes are charged, of the value of the property on which such taxes were levied, the amount of the taxes and penalties assessed thereon, and that the same are delinquent, to the aggregate of which taxes and penalties he shall add twenty-five per cent. as collection fees, upon the receipt of which certificate it shall be the duty of the Treasurer of such other County to collect such delinquent taxes and penalties, with the twenty five per cent. collection fees as aforesaid, for which purpose he shall have all the rights, powers and remedies conferred upon the Treasurer of the County in which such taxes were assessed, and be allowed the same fees for distraint and sale of property as if said taxes had been levied in his own County, and, upon collection made, may retain one-half of said twenty-five per cent. collection fees, and shall transmit the balance collected by him to the Treasurer of the County from whom he received such certified statement by mail, at the same time transmitting by mail, to the Auditor of the County from which said certified statement was sent, a statement of the amount thus transmitted by mail to the Treasurer of said latter County, and of whom collected, and said Auditor shall charge his Treasurer therewith, after deducting one-half of said twenty-five per cent. collection fees, and distribute the same to the several funds for which it was levied, and the State proportion shall be paid into the State Treasury at the next annual settlement of the County Treasurer; but, if the Treasurer, to whom any such statement is sent, cannot collect the amount therein named, or any part thereof, he shall return the same, so endorsed, with reasons for such non-collection.

All real property returned delinquent shall be offered for sale on second Tuesday of March.

Ib., 59, § 105; 1871, XIV, 621, ¶ 12.

SEC. 15. All real property returned delinquent by the County Treasurer, as provided for by this Chapter, shall be offered for sale on the second Tuesday in March next after the same shall be thus returned, to satisfy the taxes, assessments and penalties charged thereon.

County Auditor to compare delinquent list with duplicate in hands of the County Treasurer on 15th of February, annually, and designate all parcels of real estate delinquent, and advertise the same for sale.

Ib., § 106; Ib., ¶ 13.

SEC. 16. On or before the fifteenth of February, annually, the County Auditor shall compare the delinquent list with the duplicate in the hands of the County Treasurer, and designate, on said list, all the parcels of real estate upon which the taxes, assessments and penalties have been paid, including the taxes of the then current year, and proceed to advertise the remainder for sale, as hereinafter provided.

County Auditors to publish list of delinquent lands weekly, for two weeks, between 10th of February and 1st Monday in March, to which list will be attached notice of sale.

Form of.

Ib., § 107; Ib., ¶ 14.

SEC. 17. Each County Auditor in this State shall, annually, cause the list of delinquent lands in the County to be published weekly for two weeks, between the tenth of February and the first Monday in March following, in one newspaper, and no more, published in his County; and if no paper be published in said County, then in some newspaper having the most general circulation in said County, to which list there shall be attached a notice in the following form, to wit: "Notice is hereby given that the whole of the several parcels, lots and parts of lots of real estate described in the preceding list, or so much thereof as will be necessary to pay the taxes, penalties and assessments charged thereon, will be sold by Treasurer of ———— County, South Carolina, at his office in said County, on the second Tuesday (—th) of March, A. D. ——, unless said taxes, assessments and penalties be paid before that time; and such sale will be continued from day to day until all of said parcels, lots and parts of lots of real estate shall be sold or offered for sale.

————, A. D. ——,

————————, Auditor of ——— County."

And said Auditor shall insert, at the foot of the record of said delinquent list, a copy of said notice, and certify to the correctness thereof, in what paper the same was published, when, and how long, and sign the same officially.

On first Monday in March, County Treasurer, at his office, shall offer for sale all delinquent lands advertised; who to be purchaser; sale continued from day to day; State to purchase in certain cases.

Ib., § 108; Ib., ¶ 15

Proviso.

SEC. 18. The County Treasurer, or his Deputy, shall attend at his office on the first Monday in March, and then and there, after the hour of 10 o'clock in the morning, offer for sale, at public auction, each tract, parcel or lot of real estate described in the advertisement aforesaid, on which the taxes, assessments and penalties charged thereon shall not have been paid; and the person then and there offering to pay the taxes, assessments and penalties charged thereon, for the least quantity thereof, shall be the purchaser; and the Treasurer shall continue such sale, from day to day, until each tract, parcel or lot of real estate described in said advertisement, upon which the taxes, assessments and penalties shall not have been paid, shall be sold or offered for sale: *Provided*, That the sale thus made shall be denominated the delinquent land sale: *Provided*,

further, That if the land advertised for sale as aforesaid, except in incorporated cities and villages, cannot be sold for at least one-fourth of its assessed value, the Auditor shall, on behalf of the State, purchase sufficient thereof, at that rate, to satisfy the amount of the taxes, assessments and penalties aforesaid.

Penalty for failure on the part of the purchaser to make paym't. Land to be resold.

Ib, 60, § 109.

SEC. 19. If the party purchasing any part of real estate at the sale mentioned in the preceding Section shall fail to pay the Treasurer immediately the amount of taxes, assessments and penalties charged thereon, the Treasurer shall immediately offer the same again for sale, as if no sale had been made; and the purchaser or purchasers so failing to make payment of said taxes, assessments and penalties, shall forfeit and pay a penalty of fifty per cent. on the amount thereof, which shall immediately be charged on the duplicate of the County, by the County Auditor, against such purchaser or purchasers, and collected as taxes, and with like penalties for delinquency; and, when collected, one-half thereof shall be paid into the County Treasury, and the other half into the State Treasury.

County Auditor to attend delinquent land sale and keep record of the sales, and forward copy to State Auditor.

Ib., § 110.

SEC. 20. The County Auditor, or his Deputy, shall attend all sales of delinquent real estate made by the Treasurer of his County, and shall make a record of such in a substantial book, therein describing the several parcels offered for sale, as described in the advertisement aforesaid, and stating how much of each parcel was sold, and to whom sold; and if any parcel was offered for sale and not sold for want of bidders, or shall have been bid in on behalf of the State, he shall so enter it on record; and the County Auditor shall make out and certify a copy of said record, and forward the same to the Auditor of State, by the County Treasurer, at the time said Treasurer makes his annual settlement with the Auditor of State next after such sale.

Distribution of proceeds of delinquent land sales

Ib., § 111.

SEC. 21. All moneys received by the County Treasurer at any delinquent land sales shall be distributed, by the County Auditor, to the several funds for which they were respectively levied, after deducting the expenses of the advertisement aforesaid, and the State's proportion paid into the State Treasury by the County Treasurer, at his next annual settlement with the Auditor of State after such sale.

If County Auditor, for any cause, omit to publish delinquent list and taxes, assessments and penalties not paid, he shall publish it with delinquent list of succeeding year.

Ib., § 112; 1871 XIV, § 16.

SEC. 22. If the County Auditor, by inadvertence or mistake, or any other cause, shall have heretofore omitted, or shall hereafter omit, to publish the delinquent list of his County, it shall be his duty, unless all taxes, assessments and penalties charged therein shall have been paid prior to the next April settlement thereafter, of the County Treasurer, to charge the several parcels of real estate described in said list with said taxes, assessments and penalties, with the taxes, assessments and penalties of the year next succeeding such omission, and record, certify and publish the same as part of the delinquent list of such succeeding year, according to the provisions of this Chapter.

Purchasers of land at delinquent land sale to receive certificate from County Auditor on payment of proper amount to Treasurer, 50 cents to the County Auditor for the certificate, and 10 cents for the transfer. Certificate contain what. Location of lands.

Ib., § 113.

SEC. 23. Upon the payment of the proper amount into the County Treasury, and fifty cents to the County Auditor for the certificate, and ten cents for the transfer of each parcel of real estate purchased at delinquent land sale, the County Auditor shall give to each purchaser at such sale a certificate of purchase, in which he shall describe such parcel as the same was described in the delinquent list, and state when the same was sold, and for what amount; and, if only a part of any parcel advertised was sold, he shall specify the quantity sold, and authorize a surveyor, at the request of the purchaser, his heirs or assigns, to lay off, by metes and bounds, as near as may be, in a square form, at the most North-westerly corner of any tract or lot of land described in said certificate, the quantity so sold; and, if the sale be made from any city, village or town lot, or any part thereof, the surveyor shall be directed to so lay off the quantity sold that the same shall extend from the principal street or alley forming the most convenient front to said lot to the rear of the lot, and to bound the same by lines as nearly parallel with the outlines of said lot as practicable.

No deed or survey to be made till expiration of two years.

Ib., § 114.

SEC. 24. No deed shall be made for any real estate sold at delinquent land sale until the expiration of two years from and after such sale. Nor shall any survey thereof, required by any certificate of purchase, be made until the expiration of the same period of time.

Certificates of purchase assignable by endorsement.

Ib., § 115

SEC. 25. The certificate of purchase at any delinquent tax sale shall be assignable in law, by endorsement thereon, and an assignment thereof shall vest in the assignee and his legal representatives all the right and title of the original purchaser.

Land sold at delinquent land sale redeemable at any time within two years.

Ib., § 116.

SEC. 26. All real estate which has been, or may hereafter be, sold for taxes, assessments and penalties at delinquent sale, under the laws of this State, may be redeemed at any time within two years from and after such sale, and all such real estate belonging, at the time of such sale, to minors, insane persons, married women, or persons in confinement, may be redeemed at any time within two years from and after the expiration of such disability.

How land sold at delinquent land sale may be redeemed. What must be paid.

Ib., § 117.

SEC. 27. Any person or persons desiring to redeem any real estate sold at delinquent land sale, under any law of this State, may, within one year after the sale thereof, or within one year after the expiration of the disabilities named in the preceding Section, deposit with the County Treasurer of the County in which such sale was made, upon the certificate of the County Auditor, a sum equal to the amount for which such real estate was sold, with all legal charges paid by the purchaser at such sale, and subsequent taxes paid by such purchaser, his heirs or assigns, and twenty-five per cent. penalty thereon, and the value of growing crops, if any there are, and two dollars to pay the expense of advertising, as hereinafter provided; and any person desiring to redeem any such real estate after the expiration of one year, and within two years after

any such sale, or the removal of any of the disabilities aforesaid, may deposit with the County Treasurer aforesaid, on the certificate of the County Auditor, an amount of money equal to that for which such real estate was sold, and taxes subsequently paid thereon by the purchaser and those claiming under him the legal charges as aforesaid, and fifty per cent. penalty thereon, and two dollars to pay the expense of advertising, as aforesaid; also, paying the Auditor fifty cents for his services in attending to such redemption in either case.

Application for redemption of land sold for taxes must be made to County Auditor; property, how released.

Ib., § 118.

SEC. 28. All applications for the redemption of real estate sold at delinquent tax sale, as aforesaid, shall be made to the Auditor of the County in which such real estate shall have been sold by a party interested in the title to said estate; and upon such application the Auditor shall give to such party the certificate mentioned in the preceding Section, describing the real estate sought to be redeemed, and specifying the sum necessary for such redemption, and adding thereto the two dollars for expense of publishing the notice of such redemption, upon the presentation of which to the County Treasurer of the County, and payment of the sums mentioned therein into the County Treasury, the Treasurer shall give to the applicant duplicate receipts therefor, describing the property as described in said certificate of the Auditor; and, upon the delivery of one of such receipts to the County Auditor, said Auditor shall immediately cancel the sale, and transfer the property to the party redeeming the same; and such payment and cancellation shall operate as a release of all the rights of the purchaser at such sale, his heirs and assigns.

County Auditor on redemption of land, to publish notice thereof for two weeks.

Ib., 62, § 119.

SEC. 29. The County Auditor, immediately upon the redemption of any real estate as aforesaid, shall publish in some newspaper of general circulation in his County, for two consecutive weeks, a notice, addressed to the purchaser and his assigns, that the money has been deposited in the County Treasury of his County for the redemption of such real estate, describing the same and the time when sold for taxes; for the publication of which notice said Auditor shall pay the sum of two dollars out of the County Treasury.

Tenant in common may redeem his individual share of real estate sold at delinquent land sale.

Ib., § 120.

SEC. 30. Any tenant in common may redeem his individual share in any real estate sold at delinquent land sale in the manner provided for in the preceding Sections, upon payment into the County Treasury of his equal proportion of the sum requisite for the redemption of the whole, and two dollars for the publication of the notice of such redemption.

The purchaser, or his legal representatives, of delinquent lands, when said lands are redeemed, on surrendering certificate of purchase to Auditor, shall receive order on Treasurer for money deposited.

Ib., § 121.

SEC. 31. Upon the demand of the purchaser or his legal representatives of any real estate redeemed as aforesaid, and the surrender of the certificate of purchase to the County Auditor, and payments of fifty cents to said Auditor for his services in attending to such redemption, the Auditor shall cancel said certificate of purchase, file the same in his office, and give to such purchaser or his legal representatives an order on the County Treasurer for the amount of money deposited in the County Treasury in manner aforesaid, for the redemption of the real estate described in such certificate of purchase.

How any persons interested may redeem land by consent of purchaser before deed executed.

Ib., § 122.

SEC. 32. Any person interested may, at any time before the deed is made by the County Auditor, with the consent of the purchaser of any parcel of real estate sold at delinquent land sale, and the delivery and cancellation of the certificate of purchase, redeem such real estate; and in such case, and, also upon deposit of money in the County Treasury, as aforesaid, for the redemption of any real estate sold at such sale, the County Auditor shall note such redemption or deposit, and by whom and when made, on the record of delinquent land sales, and sign his name officially thereto, for doing which any party redeeming by consent, as aforesaid, shall pay said Auditor fifty cents as his fees.

After lapse of two years from sale of land, County Auditor to execute deed of conveyance to purchaser, if not again delinquent on payment, &c; two tracts in one deed.

SEC. 33. After the lapse of two years from the time of any delinquent land sale, if any purchaser of any real estate at such sale, or his legal representative, shall present to the Auditor of the County in which such sale was made a certificate of purchase of the whole of any tract or lot of real estate sold at such sale, or in case of the sale of part of a tract or lot offered at such sale, present to said Auditor the certificate of sale, and the survey and plat of the quantity purchased, made by the Surveyor, as required by this Chapter, and the taxes and assessments levied on the real estate described in such certificate, or certificate and plat, shall have been so far paid as that the same is not again delinquent; said Auditor shall (upon payment to him of two dollars as his compensation therefor) make and deliver to such purchaser, his heirs or assigns, as the case may be, a deed of conveyance for the real estate so sold as aforesaid: *Provided*, That where the whole of two or more several tracts or lots, or parts of tracts or lots, of real estate have been, or shall be, sold to the same party, or the certificates of purchase of different tracts or lots, or parts of tracts or lots, have been, or shall be, legally acquired by one person, and the party thus purchasing or holding certificates, as aforesaid, shall demand one deed for the whole of the real estate so purchased, the County Auditor shall include the whole in one deed, if all the requirements of this Chapter have been complied with, so that the party demanding such deed would be entitled to separate deeds for the said several parcels of real estate; and if the whole of any tract or lot of real estate has been acquired by one party by different purchases, or by assignments of certificates of purchase, the survey and plat aforesaid shall be dispensed with, and the deed made for the whole; and the deed so made by the County Auditor for any real estate sold at delinquent land sale shall be *prima facie* evidence of a good title in the grantee, his heirs and assigns, to the real estate therein described.

Prima facie evidence of title.

Ib., § 123.

All land offered for sale at delinquent land sale, and not sold for want of bidders, to be forfeited to the State.

Ib., § 124.

SEC. 34. Each tract or lot of land, or part thereof, or city, village or town lot, or part thereof, which shall be offered for sale by the County Treasurer at any delinquent land sale, as provided for in this Chapter, and not sold for want of bidders, shall thereby become forfeited to the State of South Carolina, and thenceforth all the right, title and interest of the former owner therein shall be vested in the State of South Carolina, and shall be designated by the County Auditor on the list of delinquent lands as "forfeited," and transferred to the State of South Caro-

lina, and charged with taxes and penalties, as if the same was purchased by a private individual, and returned by the Treasurer as delinquent until sold as forfeited real estate.

SEC. 35. The County Auditor shall enter in a substantial book, to be provided by him for that purpose, at the expense of the County, and denominated the "Forfeited Land Record," a list of all real estate forfeited to or purchased in behalf of the State, according to the provisions of this Chapter, certify to the correctness thereof, and sign the same officially; a copy of which list he shall certify and transmit to the Auditor of State, by the County Treasurer, at the time the Treasurer makes his annual settlement with the Auditor of State, next after the forfeiture or purchase of such real estate, and the Auditor of State shall record the same in his office.

County Auditor to keep a record of real estate forfeited to or purchased in behalf of the State; copy sent to State Auditor.

Ib., § 125.

SEC. 36. The County Auditor of any County in which any real estate shall hereafter be sold at delinquent land sale shall make deeds therefor, though the real estate may have been, or shall hereafter be, set off into another County subsequent to such sale, and such deed shall have the same effect as if such real estate had remained in the County in which it was sold.

County Auditor of any County, where a delinquent land sale is had, to make deeds therefor, though land subsequently transferred to another County.

Ib., § 126.

SEC. 37. All real estate sold at delinquent land sale, under the provisions of this Chapter, shall, immediately upon the certificate of purchase being given therefor, be transferred by the County Auditor to the name of the purchaser.

Real estate sold at delinquent land sale placed by Auditor in name of purchaser.

Ib., § 127.

SEC. 38. The sale of any real estate at delinquent land sale shall not be held invalid on account of its having been charged on the duplicate in any other name than that of the rightful owner.

Sale of real estate at delinquent land sale not valid though incorrectly entered on duplicate.

Ib., § 128.

SEC. 39. If any certificate given at any sale of delinquent lands shall be lost or destroyed, upon satisfactory proof thereof to the proper County Auditor, he shall make to the party entitled thereto a deed for the real estate so sold, precisely as if such certificate of purchase had not been lost or destroyed.

If certificate given at delinquent land sale be lost, a deed shall be given same as if not lost.

Ib., § 129.

SEC. 40. The County Auditor shall enter on his records of delinquent land sales a minute of all deeds by him made in pursuance of any sales of real estate therein recorded, naming the party in whose name the same stood charged on the duplicate at the time of the sale, the date of the sale, and name of the purchaser, a brief description of the real estate, the quantity sold, the amount for which the same was sold, the date of the deed, and the name of the grantee therein; also, a minute of all redemptions of any real estate so sold before any deed made therefor, with the date of redemption, and the name of the party redeeming.

County Auditor to keep minute of all deeds made pursuant to sales, and minute of all redemptions.

Ib., 64, § 130.

Right of tenants in common purchased, purchaser to hold with others as tenants in common.
Ib., § 131.

SEC. 41. The purchaser of any interest of any tenant in common, in any real estate, at any sale of delinquent lands, shall, on obtaining a deed therefor from the County Auditor, hold the same with the other owners, as a tenant in common, and be entitled to a partition of the estate so held in common, as other tenants in common.

County Treasurer to lease lands bought by State.

SEC. 42. In the case of all lands purchased on behalf of the State, under the provisions of Section eighteen (18) of this Chapter, the County Treasurer shall, in the name of the State, enter upon and take possession of the same, and may lease the same in parcels not exceeding forty acres each, to any person or persons who are citizens of the State, and who may desire to cultivate the same; said leases to be in such form as shall be prescribed by the Attorney General, and subject to all the rights of redemption in such case provided for by law. Said lands may be leased for a sum certain, not less than ten per cent. of the cost thereof, or for such share of the crops as shall be reasonable and just.

Attorney General to prescribe form of lease.

Terms of lease.
1868, XIV, 98, § 1.

Right of pre-emption acquired by lessee.
Ib., § 2.

SEC. 43. Any person who shall have rented lands under the provisions of the foregoing Section, entered upon and fulfilled the conditions of the lease, shall, at the expiration of the time during which said lands were redeemable by the original owner, be deemed to have acquired a right of pre-emption in the same.

Forty acre lots to be sold to the highest bidder.

SEC. 44. After the time allowed for the redemption of any lands purchased by the County Treasurer, on behalf of the State on account of taxes, shall have passed, the said Treasurer shall cause the same, or any portion thereof, to be sub-divided and sold, in parcels not exceeding forty acres each, at public sale, after giving sixty days' notice thereof, and issue a certificate therefor. Said lands shall be sold to the highest bidder, and on terms most advantageous to the revenue of the State: *Provided*, The party or parties who may have gained a right of pre-emption shall have the right to purchase the same at a sum not less than the cost thereof to the State, one-fourth of the purchase money to be paid down, and the balance, with interest, in three annual installments.

Terms on which lessee may purchase.
Ib., § 3.

Patents to be issued.

SEC. 45. After the purchase money shall have been fully paid, together with the interest thereon, the Governor is authorized and required to cause a patent or patents to be issued to any such person as may be the *bona fide* purchaser, owner, assignee or transferee of such lands or tenements, under and by virtue of any certificates of sale, or under and by virtue of any assignment or transfer of such certificate: *Provided*, That in case of an assignment or transfer of a certificate of sale, the person applying for such patent shall give satisfactory proof to the County Treasurer of the preceding transfers and assignments.

Provision in case of assignment of certificate.
Ib., § 4.

County Treasurer to report, annually, lands leased.

SEC. 46. The County Treasurer shall, on or before the first day of November in each year, report to the State Treasurer all lands leased under this Chapter, giving the names of the lessees and the terms of each lease, and the names of the original owners of such lands. Also, a report of all lands sold, and of the certificates of sale issued, and the terms of

each sale. All moneys accruing to the State, under the provisions of this Chapter, (Sections 42 to 46, inclusive,) shall be paid over and accounted for in the same manner as money received for taxes.

To account for moneys as for taxes.
Ib., § 5

SEC. 47. It shall be the duty of each owner of lands, and of any new structures thereon which shall not have been appraised for taxation, to list the same for taxation with the County Auditor of the County in which they may be situate, on or before the last day of August next after the same shall become subject to taxation.

New structures, when to be listed.
Ib., 64, § 132; 1871, XIV, 621, § 17.

SEC. 48. When any real estate shall be sold under any writ, order or proceedings in any Court, the Court shall, on motion of any person interested in the real estate, or in the purchase or proceeds of the sale thereof, order all taxes, assessments and penalties charged thereon to be paid out of the proceeds of such sale, as a lien prior to all others.

Courts shall order taxes paid out of proceeds of real estate sold by order of same.
Ib., § 134.

SEC. 49. All taxes, assessments and penalties legally assessed shall be considered and held as a debt payable to the State by a party against whom the same shall be charged; and such taxes, assessments and penalties shall be a first lien against the estate of all deceased persons; against the estate of bankrupts and insolvents; against the assets and estates of all persons making assignments for the benefit of creditors; against all property held in trust; against all personal property held on chattel mortgage, or in pledge; against all personal property sold for the purpose of avoiding the payment of taxes; against all personal property held by parties in fraud of creditors; against all stocks of goods, implements, machinery and tools of merchants or manufacturers, as against purchasers of the whole of such stocks upon which the taxes have not been paid; and such taxes shall be first paid out of the assets of any estates of deceased persons, or held in trust as assignee or trustee, as aforesaid, or proceeds of any property held on execution or attachment; and the County Treasurer may proceed, by action at law, against the parties holding property otherwise, as above mentioned; or, if he can obtain the possession of the property, he may distrain and sell the same precisely as if the same had not been sold, mortgaged or pledged, as above mentioned.

Taxes, assessments and penalties held a debt due the State; to be first lien; when to be first paid; County Treasurer may proceed by action against parties.
Ib., § 135
2 Bay., 244.

SEC. 50. If any action be prosecuted against the County Auditor or County Treasurer, for performing, or attempting to perform, any duty enjoined upon them by Chapters XII and XIII, the result of which action will affect the interests of the County, if decided in favor of the plaintiff in such action, such Auditor or Treasurer shall be allowed and paid out of the County Treasury reasonable counsel fees and other expenses, for defending such action, and the amount of any damages and costs adjudged against him; which fees, expenses, damages and costs, shall be apportioned rateably by the County Auditor among all the parties, except the State, interested in the revenue involved in said action; and if the State be interested in the revenue in said action, the County Auditor

In suits against County Auditor or Treasurer for performing duty under Chapters XII and XIII, when plaintiff succeeds, costs to be paid by fund involved in the action; if State interested, State Auditor to be informed; local or municipal officers made parties; when.
Ib., 65, § 137.

shall, immediately upon the commencement of said action, inform the Auditor of State of its commencement, and of the alleged cause thereof, and the Auditor of State shall submit the same to the Attorney General, who shall defend said action for and on behalf of the State; and if only some local levy made by town or other municipal authorities be involved in such suit, such town or other municipal authority shall employ and pay counsel, and all damages and costs recovered in such action; and the County Auditor or Treasurer, or both, if both be sued, may, by cross petition, answer, or motion in Court, cause the town trustees or other local or municipal authorities interested in the revenue involved in the action to be made parties thereto, (if not already parties,) and the Court in which such action may be pending shall cause trustees, or other local or municipal authorities, to be made parties to such action, and render judgment for any damages and costs which may be found in favor of the plaintiff against said town trustees or other municipal or local authorities, and not against said Auditor or Treasurer.

County Auditor to give State Auditor answer in writing, touching condition and value of real estate, &c.

Ib., § 138.

SEC. 51. Each County Auditor shall answer, in writing, all inquiries propounded to him by the Auditor of State, touching the condition and value of the real estate of his County, and changes made in the valuations thereof in the different towns, villages, cities, wards and other districts; also, as to the valuations of the different classes of personal property for taxation, as compared with their market value, and in relation to any and all matters which the Auditor of State may deem of interest to the public, or of value to him in the discharge of his duties as Auditor of State.

Pay of State Board of Equalization

Ib., 66, § 140.

SEC. 52. Each member of the State Board of Equalization, except the State officers on said Board, shall receive three dollars per day for each day he shall be employed in performing the duties enjoined upon him, and ten cents per mile for traveling to, and the same for returning from, the seat of Government, to be computed by the most usually traveled route, and paid out of the State Treasury, on the warrant of the Auditor of State.

Pay of City Boards of Equalization.

Ib., § 141.

SEC. 53. Each member of the City Boards of Equalization shall receive for his services, for each day actually employed in performing the duties enjoined upon him, three dollars per day, to be paid out of the County Treasury, on the warrant of the County Auditor.

Punishment of County Auditor and County Treasurer for neglect of duty; upon indictment and conviction, fined and imprisoned in the Penitentiary.

Ib., § 142; 1871, XIV, 623, § 1.

SEC. 54. Every County Auditor or County Treasurer who shall, in any case, refuse or knowingly neglect to perform any duty enjoined on him, or who shall consent to, or connive at, any evasion or violation of any of the provisions of Chapters XII and XIII, whereby anything required to be done by any of said provisions shall be hindered or prevented, or whereby any property required to be listed for taxation shall be unlawfully exempted, or the valuation thereof be entered on the return for taxation, or on the duplicate, at less than its true value, estimated according to the rules prescribed, or any tax, assessment or penalty, shall not be collected, shall be deemed guilty of an offence, and upon indict-

ment and conviction thereof, shall be fined in any sum not exceeding two thousand dollars, and imprisoned in the Penitentiary for a term not less than one nor more than three years.

SEC. 55. Each County Auditor is hereby authorized to administer all oaths necessary to be taken by any one in the assessment and return of property for taxation, or necessary in the performance of any duty enjoined upon County Auditors by law.

County Auditors authorized to administer oaths.
Ib., § 145.

SEC. 56. The Governor is authorized, by and with the advice and consent of the Senate, to appoint the State Auditor, County Auditors, and County Treasurers, and to require such bonds from said officers as he may deem necessary: *Provided*, That the bond of the County Treasurer of Charleston County shall not be less than twenty thousand (20,000) dollars, and the bonds of the County Treasurers of each of the other Counties shall not be less than ten thousand (10,000) dollars.

State Auditor, County Auditor and County Treasurer to be appointed by Governor; bond of Treasurers.
Ib., § 145; 1868, XIV, 13, § 2.

SEC. 57. The State Auditor is authorized to have the City of Charleston surveyed and numbered, and to place the numbers in a conspicuous place in front of the buildings or lots. And it shall be a penal offence for the landlord, agent or tenant to remove the same.

State Auditor to number houses, &c., in Charleston; offence to remove.
1871, XIV, 621, § 1.

SEC. 58. The Governor is authorized and empowered, whenever, to him, there appears good and sufficient cause, to remove the State Auditor or any County Auditor or County Treasurer, and report the fact, together with his reasons therefor, to the General Assembly.

Governor may remove Auditors and Treasurers, &c.
1870, XIV, 32[illegible], § 1.

SEC. 59. Any officer so removed, who shall attempt to exercise the functions of the office from which he has been removed, after official notice of such removal; or fail, when application is made to him by his successor, to turn over all the books, papers and property of all kind whatsoever pertaining to his office, shall be deemed guilty of a misdemeanor, and on conviction thereof shall, for each offence, be fined in a sum not less than five hundred dollars, or be imprisoned for not less than six months.

Default of officer removed to turn over books, &c.; how punished.
Ib., § 2.

SEC. 60. If the Senate is not in session when a vacancy occurs in any of said offices, then the Governor shall fill such vacancy by appointment, and the officers thus appointed shall continue in office until the expiration of the next term of the General Assembly; and if they shall be confirmed by the Senate, they shall continue in office until the expiration of the regular term, and their successors are appointed and qualified.

In absence of Senate Governor to fill vacancy for time.
1868, XIV, 66, § 146.

SEC. 61. The Treasurer of Charleston County is authorized to appoint three Deputies, whose duty it shall be to assist in the collection of taxes in said County. Said Deputies shall each receive, as compensation for their services, the same commissions as are paid for the collection of taxes to the County Treasurer: *Provided*, That the total amount paid to each Deputy, in any current year, shall not exceed the sum of five hundred dollars: *And provided, further*, That the duties of said

Treasurer of Charleston County authorized to appoint three Deputies: duties, pay, bond.
1870, XIV, 38[illegible], § 4.

Deputies shall be confined to the collection of the simple taxes, and shall not include the collection of taxes with penalties attached. Said Deputies shall give such bond for the faithful performance of their duties as said County Treasurer shall require.

Collection of taxes not to be enjoined.

Ib., 367, § 5; amended by Com'rs.

SEC. 62. The collection of taxes shall not be stayed or prevented by any injunction, writ or order, issued by any Court or Judge thereof.

In action for recovery of illegal taxes, only amount paid recovered, unless.

Ib., § 7.

SEC. 63. In any action or proceeding against any County Treasurer in this State, for the purpose of recovering any property or money alleged to have been erroneously or illegally assessed and collected as taxes, assessments or penalties, unless the party bringing such action or proceeding shall make it appear that a notice in writing of the claim on which such suit may be brought was given to said Treasurer in pursuance of the eighth (8th) Section of this Chapter, and unless it shall be made to appear that said Treasurer has proceeded contrary to the provisions of this Chapter, the amount recovered in such suit shall not exceed the value of the property or money aforesaid.

Attorney General to defend County Treasurer or other officer; when; judgment, how paid.

Ib., § 8.

SEC. 64. It shall be the duty of the Attorney General of the State to defend any suit or proceeding against any County Treasurer, or other officer, who shall be sued for moneys collected, or property levied on or sold on account of any tax, when the State Auditor shall have ordered such Collector to proceed in the collection of any such tax, after notice as aforesaid, or suit brought; and any judgment against such Treasurer or other officer, finally recovered, shall be paid in the manner provided in Section sixty-three (63) of this Chapter.

Unpaid taxes levied by the late Provisional Government or under Military Orders to be collected by County Treasurers.

1868, XIV, 300, § 1

SEC. 65. That all past due and unpaid taxes, State or County, laid or levied under or by authority of the late Provisional Government, or under or by virtue of military orders, shall be paid and collected by the County Treasurer, to whom the late Tax Collectors shall turn over all moneys, books, tax executions, papers and other property, now in their possession, in the same manner as is provided in this Chapter.

Fees for collection of taxes paid, but no *nulla bona* costs.

1868, XIV, 300, 2

SEC. 66. Fees for the actual collection of taxes only shall be allowed, and no costs or expenses shall be paid by the County or State on any executions issued, or hereafter to be issued, and returned *nulla bona*.

Attorney General to give State Auditor opinion when requested.

1868, XIV, 300, § 1.

SEC. 67. The Attorney General shall, when requested so to do, give to the Auditor of State a written opinion upon any question submitted to him by said Auditor, relative to the true construction of Chapters XII and XIII, or any provisions thereof.

CHAPTER XIV.

Of the Assessment and Collection of Taxes by Municipal Bodies.

Sec.
1. To lay taxes at a uniform and equal rate.
2. Property exempt.

Section 1. That all municipal corporations created under or by the laws of this State, and vested with power to lay and collect taxes, are authorized and required to assess all property, real and personal, within their corporate limits, at its actual value, and lay all taxes thereon at a uniform and equal rate.

To lay taxes at a uniform and equal rate.
Con., Art. IX, §§ 1, 8; Art. XII, § 2; 1870, XIV, 411, § 1.

Sec. 2. That all property, and no other, exempted from taxation by Section 6 of Chapter XII, shall be exempted from taxation by municipal corporations.

Property exempt.
Ib.

TITLE IV.

CHAPTER XV.

Of the Militia.

Sec.
1. Able-bodied male citizens, between eighteen and forty-five, subject to military duty, except, &c.
2. Enrollment to be made once in two years. What enrollment to contain; first and second class. Compensation of enrolling officers.
3. All persons enrolled neglecting to attend musters, subject to fine of $1 per day. How collected.
4. County Treasurers to pay fines to State Treasurer on or before 25th April. Names of delinquents to be given to County Commissioners and to County Auditor; to pay or work on road.
5. Bond of County Treasurer to extend to moneys collected for military purposes.
6. All tavern keepers, boarding house keepers, &c., to give information, when required, of persons liable to be enrolled.
7. Penalty for refusing to give information or giving false information. How recovered.
8. County Commissioners to publish notice that enrollment has been completed. Notice to exempts to file written statement, and when.
9. Persons claiming exemption from military service to file statement with Clerk of the Circuit Court.
10. Enrolling officer to enter word "Exempt" opposite names of persons exempt from military duty. False swearing to be perjury.
11. Reserve of first and second class.

SEC.
12. Penalty of not less than $50, nor more than $100 for neglect of officers under this Chapter. Complaint to be made by County Commissioners or commanding officer of regiment to Solicitor of Circuit.
13. The Adjutant General to organize the militia into divisions, brigades, regiments, squadrons, troops, batteries and companies.
14. Organized militia to be known as the National Guard To be no military organizations not authorized by the Commander-in-Chief. Penalty.
SEC.
15. Assistant Adjutant General, if necessary, to be appointed
16. In case of invasion, insurrection or rebellion, Quartermaster General, Commissary General and Surgeon General to be appointed.
17. Storage of arms, &c.
18. Officers of militia to be appointed by Governor. Paid only when in actual service.
19. Commissioned officers of militia; how removed or suspended.
20. Militia mustered and drilled, when.

Able-bodied male citizens, between 18 & 45, subject to military duty, except, &c.

Con., Art. 13, § 1; 1869, XIV, 215, § 1.
3 McC., 329; 2 McC., 47.

SECTION 1. That all able-bodied male citizens, between the ages of eighteen and forty-five years, residing in this State, and not exempted by the laws of the United States, shall be subject to military duty, excepting—

1st. All persons in the army or navy or volunteer forces of the United States.

2d. Regularly ordained or licensed ministers and preachers of the Gospel.

3d. The Lieutenant Governor, members and officers of the General Assembly, the Secretary of State, Attorney General, Comptroller General, State Auditor, Commissioner of Bureau of Agricultural Statistics, Superintendent of Education, State Treasurer, and clerks and employees in their offices, judicial officers of the State, including Justices of the Peace, Trial Justices, Sheriffs, Coroners, Constables, civil officers of the United States, ferrymen employed at any ferry on a post road, and millers.

4th. All persons entertaining conscientious scruples against bearing arms, practicing physicians, professors, teachers and students in colleges, academies and common schools.

5th. Persons regularly and honorably discharged from the army and navy of the United States, in consequence of the performance of military or naval duty, in pursuance of any law of this State, and all persons who now are, or may hereafter be, active members of regularly incorporated fire companies in this State.

6th. Commissioned officers who shall have served as such in the loyal militia of this State, or in any one of the United States, for the space of seven years; but no such officer shall be exempt, unless, by his resignation after such term of service, duly accepted, or in some other lawful manner, he shall have been honorably discharged.

7th. Idiots, lunatics, paupers, and persons convicted of infamous crimes, shall not be subject to military duty.

Enrollment to be made once in two years.

1869, XIV, 216, § 2.

SEC. 2. That, under the directions of the Commander-in-Chief, all persons liable to military duty within this State who are not already members of the National Guard, as hereinafter provided, shall, from time to time, as the Commander-in-Chief shall deem necessary, but as often as once in every two years, be enrolled. Such enrollment shall

distinctly specify the names and residences of the persons enrolled, and shall also divide the same into two classes—the persons between the ages of eighteen and thirty years to constitute the first class, and the persons between the ages of thirty and forty-five years to constitute the second class. Three copies of such enrollment shall be made by the officer making the same, one of which, after being corrected, shall be retained by him, another shall be filed in the office of the Clerk of the Circuit Court in the County, and the third shall be filed in the Adjutant General's office. The persons making said enrollment shall be compensated at the rate of one dollar and fifty cents per day for every day necessarily spent in making and copying the same; the number of days not to exceed ten; and the amount of such compensation shall be paid by the Treasurer of the State, upon production of the certificates of the Clerk of the Circuit Court in the County, and of the Adjutant General, that such rolls have been duly filed, on or before the first day of February in each year in which such enrollment shall be made: *Provided*, That the Commander-in-Chief may, if he deem it necessary, extend the term of completing the first enrollment under this Chapter, not to exceed twenty days, and authorize payment for the same, as hereinbefore specified.

What enrollment to contain. 1st and 2d class.

Compensation of enrolling officer.

SEC. 3. That all persons duly enrolled who shall neglect to attend the musters and drills provided for, except in cases of sickness, shall be subject to a fine of one dollar for each day so neglecting, which, if not paid to the County Treasurer on or before the fifteenth day of March next ensuing, shall be collected by the collector or receiver of taxes of the city or County in which the person so neglecting is enrolled, and the Board of County Commissioners, at their annual meetings, are authorized and directed to annex a list of the several delinquents, with the fines set opposite their respective names, to the assessment rolls of the County; and the warrants for the collection of the same shall direct the County Treasurer to collect the amount from every person appearing, by the said assessment roll, liable to pay the same, in the same manner as other taxes are collected. And when the name of any person, between the ages of eighteen and twenty-one years, shall appear on the said roll liable to pay the said fine, the said warrant shall direct the collector to collect the same of the father, guardian or employer with whom such person shall reside or be employed, or out of any property such minor may own or possess in said County; and such collector shall proceed and execute such warrant, and no property now exempt from other executions shall be exempt from the payment of such fine.

All persons enrolled neglecting to attend musters, subject to fine of $1 per day. How collected.

Ib., 217, § 3.

Minors.

SEC. 4. The County Treasurer of each County shall, on or before the twenty-fifth day of April in each year, pay the Treasurer of the State the actual sum received from delinquents who have failed to attend such musters and drills; and it shall be the duty of the officers commanding the several regiments to furnish the County Commissioners the names of those who have failed to attend such musters and drills. The County

surer to fines to St Treasurer or before the 25th of Apr . Names of d . linquents to be given to

County Auditor. To pay or work on road.
Ib., § 4.

Commissioners shall give the names of the persons so failing to the County Auditor, and, unless they are excused, shall place an extra assessment of one dollar per day on their general tax, if a property holder; and in case said delinquents, or any of them, are not property holders, then he or they shall be compelled to work the public roads at a rate not exceeding one dollar per day.

Bond of County Treasurer to extend to moneys collected for military purposes.
Ib., § 5.

SEC. 5. The bond required to be executed by the County Treasurer shall also apply and extend to any moneys required to be collected for military purposes.

All tavern keepers, boarding house keepers, &c., to give information, when required, of persons liable to be enrolled
Ib., § 6.

SEC. 6. That all tavern keepers, persons keeping boarders in their families, keepers of boarding houses, and any master or mistress of any dwelling house, shall, upon the application of any officer authorized to make such enrollment, give information of the names of all persons residing or lodging in such house liable to be enrolled, and all other proper information concerning such persons as such officers may require.

Penalty for refusal to give information, or giving false information. How recovered.
Ib., § 7.

SEC. 7. That if any person of whom information is required by any such officer, in order to enable him to comply with the provisions of law, shall refuse to give such information, or shall give false information, he shall forfeit and pay twenty dollars for each item of information demanded of him by any such officer and falsely stated, and a like sum for each individual name concealed or falsely stated; and every person who shall refuse to give his own name and proper information, when applied to by any such officer, or shall give a false name or information, shall forfeit and pay a like sum, such penalties to be recovered in any Court of competent jurisdiction, in the name of the State of South Carolina; and it is hereby made the duty of such officer to report the names of all persons who may incur any penalty, under this Section, to any Trial Justice in the County for prosecution.

County Commissioners to publish notice that enrollment has been completed. Notice to exempts to file written statement, when.
Ib., 218, § 8.

SEC. 8. That whenever an enrollment shall be made the Board of County Commissioners shall cause to be published, once a week for four weeks previous to the first day of February, in a newspaper with circulation in the County, or by written or printed placards, in not less than four public places, a notice that such rolls have been completed and filed as aforesaid; which notice shall also specify that any person who claims that he is, for any reason, exempt from military duty, shall, on or before the 15th day of February next ensuing, file a written statement of such exemption, certified by affidavit, in the office of the Clerk of the Circuit Court; and the publication of such notice shall be sufficient notice of such enrollments to all persons named therein. Such roll shall be made in the form prescribed by the Commander-in-Chief, and the Adjutant General shall furnish all the enrolling officers suitable blanks and instructions for the completion of such enrollment.

SEC. 9. That all persons claiming exemption shall file a written statement of the same, verified by affidavit, in the office of the Clerk of the Circuit Court of the County in which he resides, on or before the fifteenth day of February, in default of which such person shall lose the benefit of such exemption, except such as are especially exempted by this Chapter or by Act of Congress.

Persons claiming exemption from military service to file statement with Clerk of Court.
Ib., § 9.

SEC. 10. That the person making such enrollment shall, thereupon, if such person be exempt according to law, mark the word "Exempt" opposite the name of each person presenting such exemption; if such exemption be permanent, the name of such person shall not be included in any subsequent enrollment. If any person shall swear falsely in such affidavit, he shall, upon proof thereof, be adjudged guilty of perjury in any Court of competent jurisdiction.

Enrolling officer to enter word "exempt" opposite names of persons exempt. False swearing perjury.
Ib., § 10.

SEC. 11. That the persons thus enrolled shall form the reserve militia of the State of South Carolina; those over eighteen and not over thirty years of age shall constitute the reserve of the first class; and those over thirty and under forty-five years of age shall constitute the reserve of the second class.

Reserve of first and second class.
Ib., § 11.

SEC. 12. That if any officer charged with any duty under the provisions of this Chapter shall refuse or neglect to perform any of the duties required of him by this Chapter, he shall forfeit and pay the sum of not less than fifty nor more than one hundred dollars for each and every offence, to be recovered in the name of the State of South Carolina; and such officer shall, as an additional penalty, be deemed guilty of a misdemeanor; and it shall be the duty of the Solicitor of the Circuit within which said offender resides, upon the complaint of the commanding officer of the regiment, or on the part of the Board of County Commissioners, to prosecute the same. Any penalty incurred and paid, or collected, under this Section, shall be paid into the Treasury of the County for the use of the military fund of the County.

Penalty of not less than $50 nor more than $100 for neglect of officer under this Chapter. Complaint to be made by County Commissioners or commanding officer of regiment to Solicitor of Circuit.
Ib., § 12

SEC. 13. That the Adjutant General, under the direction of the Commander-in-Chief, shall organize and apportion the militia, and the districts therefor, into divisions, brigades, regiments, squadrons, troops, batteries and companies, and cause the same to be numbered and lettered as nearly in conformity with the laws and regulations governing the army of the United States as circumstances will permit, and may after divide, annex or consolidate the same, and the districts thereof, as he may judge expedient.

The Adjutant General to organize militia into divisions, brigades, &c.
Ib., 249, § 13

SEC. 14. That the organized militia of this State shall be known as the National Guard of the State of South Carolina, and shall consist of such divisions, brigades, regiments and battalions, and, in addition thereto, such batteries of light artillery, and troops and squadrons of cavalry, as the Commander-in-Chief may deem expedient; and nothing herein contained

Organized militia to be known as the National Guard.
Ib., § 14; Con., Art. 13, § 2.

To be no military organizations not authorized by the Commander-in-Chief. Penalty.

shall be so construed as to interfere with the power of the Commander-in-Chief, in case of war or insurrection, or of imminent danger thereof, to order drafts of the militia, and to form new regiments, battalions, brigades or divisions, as he may deem just and proper: *Provided*, That there shall be no military organizations, or formations for the purpose of arming, drilling, exercising the manual of arms, or military manœuvres, not authorized under this Chapter, and by the Commander-in-Chief, and any neglect or violations of the provisions of this Section shall, upon conviction, be punished with imprisonment at hard labor in the State Penitentiary for a term not less than one year, nor more than three years, at the discretion of a competent Court.

Assistant Adjutant General, if necessary, to be appointed.

Ib., 219, § 15; Con., Art. 13, § 3.

SEC. 15. That an Assistant Adjutant General may be appointed, if deemed necessary, by the Governor, by and with the advice and consent of the Senate. His salary shall be at the rate of fifteen hundred dollars per year, while on duty. The duties of Quartermaster General shall devolve upon the Adjutant General in times of peace.

In case of invasion, &c., Quartermaster General, &c., to be appointed.

Ib., § 16.

SEC. 16. That, in case of invasion, insurrection or rebellion, or imminent danger thereof, the Governor shall appoint, by and with the advice and consent of the Senate, a Quartermaster General, Commissary General and a Surgeon General.

Storage of arms, &c.

Ib., § 17.

SEC. 17. That the arms, equipments and munitions of the State shall be stored under the directions of the Commander-in-Chief, and in such places as he may designate.

Officers of militia to be appointed by Governor.

Ib., § 18.

SEC. 18. That all officers of the militia (except as herein provided) shall be appointed and commissioned by the Governor. They shall draw pay only when engaged in actual service.

Commissioned officers of militia, how removed or suspended.

Ib., § 19.

SEC. 19. That all commissioned officers of the militia may be removed from office on recommendation by the commanding officer of their respective brigades and divisions. Removal may also be made by decision of a court martial, or retiring or examining board, pursuant to law; and for misconduct any officer may be suspended by the Commander-in-Chief.

Muster and drill.

Ib., § 20.

SEC. 20. That the militia of this State shall be mustered and drilled at such times as the Commander-in-Chief or commanding officers of divisions, brigades and regiments may direct.

TITLE V.

OF CERTAIN STATE OFFICERS AND MATTERS OF FINANCE.

CHAPTER XVI. *Of Certain State Officers.*
XVII. *Of the Comptroller General, Treasurer, State Auditor, Land Commissioner, Commissioner of the Sinking Fund, and Matters of Finance.*

CHAPTER XVI.

OF CERTAIN STATE OFFICERS.

SEC.

Executive Department.

1. What officers compose the Executive Department of the State Government.

Governor.

2. Governor furnished with suitable office, called Executive Chamber. To keep a record of all official acts. Salary $3,500 per annum.
3. To appoint physician to attend Charleston jail.
4. To examine, annually, certain bonds. Officers to provide satisfactory sureties. In case of default office vacant.
5. To fill vacancies in Board of Commissioners of Downer Fund.
6. To appoint Catawba Indian Agent.
7. May remove officers appointed by him. To report reasons to General Assembly.
8. Private Secretary of Governor to keep record of official acts.
9. Office of Governor to be exercised by President *pro tem.* of the Senate—when.
10. By Speaker of House of Representatives—when.
11. General Assembly shall elect a Governor—when.
12. Such Governor shall immediately enter upon duties of office.

Lieutenant Governor.

13. *Per diem*, salary and mileage of Lieutenant Governor.

Secretary of State.

14. Salary of Secretary of State. Fees of his office to be paid into State Treasury.
15. To give bond—amount.
16. Duties of Secretary of State.
17. Office hours.
18. Secretary to pay damages on account of any false certificate given by him.
19. Records, &c., of office of Superintendent of Public Works to be transferred to office of Secretary. Certified copies of deeds, &c., to be given by Secretary.

SEC.

20. Secretary to perform duties of Surveyor General.
21. Shall appoint deputy surveyors.
22. To make abstract of returns of the poor to General Assembly.

Attorney General and Solicitors.

23. Salary of Attorney General.
24. To give bond—amount.
25. Duties
26. Attorney General to file informations.
27. To consult with and advise Solicitors.
28. To enforce due application of funds. Prosecute corporations which fail to make returns.
29. Attend General Assembly when required by either branch.
30. Give advice to State officers.
31. To make report to General Assembly.
32. Contingent expenses of civil actions to be paid and accounted for.
33. No prosecuting officer to receive fees.
34. Attorney General to account with Treasurer for all fees, &c.
35. Attorney General and Solicitors to defend the right of the State.
36. To sue for penalties incurred by any public officer.
37. To examine County offices annually.
38. Solicitors to attend Circuit Courts.
39. Solicitors' duties in general. May defend persons on trial when not required to prosecute.
40. To furnish Comptroller General statement of debts due the State. Penalty for neglect.
41. To prosecute offenses against civil rights of citizens. Penalty for failure. Attorney General to prosecute Solicitors.
42. Solicitors to furnish Comptroller General duplicates of their returns.
43. Solicitors to give bond—amount.

State Constable.

44. Appointment and confirmation of State Constable. May appoint assistants.
45. Powers and duties of Chief and Deputies.

SEC.
46. Compensation—accounts, how paid.
47. Rules. Force to be always prepared to enforce the laws.
48. Arming of force. Suppression of riots, &c. Governor may assume control.

Notaries Public.

49. Notaries Public to be appointed by the Governor. Jurisdiction. Term of office.
50. To take oath.
51. Seal of office.
52. Powers of Notaries Public.
53. Not to act in criminal cases.
54. Fees of Notaries Public.

Commissioners of Deeds.

55. Governor may appoint Commissioners of Deeds. Tenure of office.
56. To make oath to faithful performance of duties. Notice of appointment to be given.
57. Powers of.
58. To administer oaths.
59. Have power to take renunciations of dower.

Executive Department of the State.

What officers compose the Executive Department of the State Government. 1865, XIII, 350, § 1.

SECTION 1. The Executive Department of this State is hereby declared to consist of the following officers, that is to say: The Governor and Lieutenant Governor, the Secretary of State, the Treasurer of the State of South Carolina, the Attorney General and Solicitors, Comptroller General, State Auditor and State Superintendent of Education.

Governor.

Governor furnished with suitable office called Executive Chamber.

To keep a record of all official acts. Salary $3,600 per annum.

Ib., § 2; Con., Art. 3, §§ 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22. 1 McC., 178; 1 Bailey, 283

SEC. 2. The Governor shall be furnished with a suitable office, to be called the Executive Chamber, in which all petitions, memorials, letters, and all other official papers and documents addressed to or received by him, shall be methodically arranged and kept, with proper indexes therefor. He shall keep a record in proper books of all his messages to the General Assembly, of all applications for pardon made to him, of all such pardons as may have been granted by him, and of all communications to the General Assembly relating thereto; of all bills presented to him in obedience to the provision of the Constitution, and of all objections he may make to any of them; of all official communications, proclamations and orders issuing from his office; and of all other matters which the Governor may think it important to preserve. The Governor shall receive an annual salary of three thousand five hundred dollars.

To appoint a physician to attend gaol in Charleston, &c. 1820, VI, 143, § 1.

SEC. 3. That the Governor, for the time being, shall have power, in each and every year, to appoint some fit and proper person to attend as a physician and surgeon on the prisoners confined in the gaol in Charleston County; his attendance to commence on the tenth day of January, and to continue for one year and until another appointment shall be made as aforesaid.

To examine annually certain bonds.

SEC. 4. That the bonds for the faithful performance of their respective duties, to be hereafter entered into by the following public officers, namely: the Comptroller General, the Secretary of State, and the Treasurer, shall be first approved of, and afterwards annually examined, by the Governor, at such time as he may appoint; that if any of the sureties in either of the aforesaid officers' bonds, should die or depart permanently from the State, or if the said Governor should, at the time of his examination, or at any other time, be of opinion that either of the said sureties is not worth as much, clear of debt, as his proportion of

the obligation to which his name is affixed, he, the said Governor, shall cause the said public officer whose surety has departed this life or removed from the State, or is objected to for insufficiency of estate, to be notified of such exception; and the said officer shall, within thirty days after the service of such notification, procure other satisfactory surety to the said Governor, for such as have departed the State or died, (but shall not cancel or at all impair the original bond), or produce satisfactory evidence to the said Governor that the surety objected to as owning insufficient property is worth as much as his proportion of the said obligation, clear of debt, or else the said public officer shall procure such additional and sufficient surety or sureties as the said Governor shall approve of. And in default of compliance with either of the said requisitions within the said thirty days, the office of the said defaulting officer shall be regarded as vacant.

Officers to provide satisfactory sureties.

In case of default, office vacant.

1839, VI, 147, § 2; 1866, XIII, 381, § 2. See Chapter XXVIII, § 9.

SEC. 5. That the Governor be authorized and required, from time to time, upon the death, resignation, removal from the County of Edgefield, or refusal to serve, of any person appointed a Commissioner for the administration of the Downer Fund, to fill the vacancy so occurring, by the appointment of another Commissioner, who shall be a resident of the County of Aiken, so that there may, at all times, be a Board of three Commissioners for the administration of the said Fund in conformity to the last will and testament of Alexander Downer, deceased.

To fill vacancies in Board of Commissioners of Downer fund.

1847, XI, 275, § 1. See 1858, VI, 595, § 1. Amended by Com'rs.

SEC. 6. That the Governor of the State, for the time being, is authorized to appoint one or more Commissioners, to carry into effect the provisions made by law for the Catawba Indians, whose compensation, for the time he may be employed, shall be three dollars a day.

To appoint Catawba Indian Agent.

1840, XI, 147, § 5.

SEC. 7. That the Governor be authorized and empowered, whenever to him there appears good and sufficient cause, to remove any County Auditor or County Treasurer, or any other civil officer by him appointed, and report the fact, together with his reasons therefor, to the General Assembly.

May remove officers appointed by him. To report reasons to General Assembly.

1870, XIV, 329, § 1.

SEC. 8. The Governor shall be allowed a Private Secretary, to be appointed by him, who shall receive an annual salary of two thousand dollars, and whose duty it shall be, under the direction of the Governor, to keep an accurate record, under proper dates, of all transactions, opinions, and other official matters and acts occurring during his period of office, which said record shall, under certain restrictions, be open to the inspection of the members of the General Assembly. He shall also perform such clerical and other duties as may be required of him by the Governor, in connection with the duties of the office of Governor.

Private Secretary of Governor to keep record of official acts.

1865, XIII, 370, § 2; 1868, XIV, 11; 1869, XIV, 283.

SEC. 9. In case of the removal, death, resignation or inability of both the Governor and Lieutenant Governor, the President of the Senate *pro tempore* shall exercise the office of Governor, until such disability shall have been removed, or until the next general election, when a Governor shall be elected by the electors duly qualified, as is prescribed by Section 2 of Article III of the Constitution.

Office of Governor to be exercised by President *pro tem.* of Senate; when.

1868, XIV, 101, § 1.

By Speaker of House of Representatives—when

Ib., 102, § 2.

SEC. 10. In case of the disability, from whatever cause, of the Governor, Lieutenant Governor and the President of the Senate *pro tempore*, the Speaker of the House of Representatives shall exercise the office of Governor, in like manner, and upon the like conditions, as are prescribed by Section 9 of this Chapter.

Gen'l Assembly shall elect a Governor—when.

Ib., § 3.

SEC. 11. In case of the disability, from whatever cause, of all the officers enumerated in the two preceding Sections, the General Assembly, if the same shall be in session, by a joint vote, shall elect a person duly qualified to fill the office of Governor, in like manner, and upon the like conditions, as are prescribed by Section 9 of this Chapter.

Such Gov'r shall immediately enter upon duties of office.

Ib., § 4.

SEC. 12. Whenever a Governor shall be elected at such election, as provided for in the preceding Section, he shall immediately enter upon the discharge of the duties of his office, and shall continue to so discharge such duties of office during the residue of the term.

Lieutenant Governor.

Per diem, salary and mileage of Lieut. Governor.

1865, XIII, 350, § 3; 1868, XIV, 135, § 1; 1871, XIV, 531; Con., Art. 3, § 2, 5, 6, 7, 8, 9, 15, 20.

SEC. 13. The Lieutenant Governor, while presiding over the Senate, shall receive a per diem of ten dollars and the mileage of a member of the General Assembly. He shall also receive an annual salary of twenty-five hundred dollars, the same to be paid to him quarterly out of the Treasury of the State, and to be exclusive of his pay whilst acting as President of the Senate.

Secretary of State.

Salary. Fees paid into the State Treas'y.

1868, XIV, 135; 1870, XIV, 382, § 1; Con., Art. 3, §§ 19, 23.

SEC. 14. The Secretary of State shall receive an annual salary of three thousand dollars, and the fees or perquisites of the office shall be paid into the Treasury of the State.

To give bond: amount.

New. See 1820, VI, 147, § 2.

SEC. 15. The Secretary of State, before entering upon the duties of his office, shall execute a bond, with two or more good securities, in the penal sum of ten thousand dollars, for the faithful discharge of the duties of his office.

Duties of Secretary of State.

1865, XIII, 350, § 4; Con., Art. 3, § 19. 1786, IV, 751, § 4.

SEC. 16 The Secretary of State shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the Executive Chamber. He shall keep in Columbia all the books, records and papers belonging thereto. He shall hold his office in the State House in Columbia.

Office hours.

1795, V, 561, § 4.

SEC. 17. He shall keep his office open from nine o'clock in the morning until three o'clock in the afternoon, every day in the year, Sundays, Christmas Day, and the Anniversary of the Independence of America excepted.

Secretary to pay damages on account of any false certificate given by him.
1868, II, 158, 5.

SEC. 18. If any Secretary of State, or his Deputy, shall certify, under his hand, that no sale, conveyance, or mortgage of any particular goods or chattels, by any particular person, is registered in his office, when, at the same time, there is such record, such Secretary, or his Deputy, shall forfeit and pay to such person who made inquiry, and who is damaged by reason of such false certificate by him made, as aforesaid, all his damages and costs of suit which he shall sustain by reason of any second mortgage.

Records of office of Supt. Public Works transferr'd to Secretary's office.
1859, XII, 520, §§ 1, 2.

Certified copies of deeds, &c., to be given by him.

SEC. 19. That the records, books and papers belonging to the office of the late Superintendent of Public Works be transferred to the office of Secretary of State, as part of the records of said office, and that the Secretary of State be authorized and required, upon the application of any person interested therein, to give certified copies of any deed, grant or other paper belonging to the said office, which said copies may be used in evidence in any Court in this State, in like manner as office copies of other records are now used, and that he be authorized to charge therefor the same fees as are now allowed by law for the like service.

To perform duties of Surveyor Gen'l.
1868, XIV, 335, §1. See Chapter VI.

SEC. 20. That the office of the Surveyor General is abolished, and the duties heretofore devolved upon that office shall be performed by the Secretary of State.

Shall appoint Deputy surveyors.
1784, IV, 504, 57.

SEC. 21. That the Secretary of State shall have full power and authority to appoint such and so many Surveyors in each County for executing the warrants of survey issued by him, as he may judge sufficient, not exceeding six for each County, for whose conduct in office the Secretary of State shall be responsible to the party aggrieved.

To make abstract of returns of the poor to Gen'l Assembly.
1870, XIV, 372, § 14.

SEC. 22. The Secretary of State shall, on or before the fourth Tuesday in November of each year, make out an abstract of the return made to him by the Overseers of the Poor of each city and County in the State, together with such explanatory remarks as he deems proper, and, through the Governor of the State, transmit the same to the Legislature.

Attorney General and Solicitors.

Salary.
1868, XIV, 88, § 1; Con., Art. 4, § 28.

SEC. 23. That the Attorney General shall receive a salary of three thousand dollars a year, and a sum not exceeding one thousand dollars annually for such clerical assistance as the business of his office may require.

To give bond: amount.
1812, V, 675, § 1.

SEC. 24. That the Attorney General, before entering upon the duties of his office, shall execute a bond, with two good securities, in the penal sum of ten thousand dollars, to the State of South Carolina, for the faithful discharge of the duties of his office.

Duties.
1868, XIV, 88, 2.

SEC. 25. He shall appear for the State in the Supreme Court in the trial and argument in said Court of all causes, criminal and civil, in which the State is a party or interested, and in such causes in any Court or tribunal, when required by the Governor or either branch of the General Assembly.

Attorney General to file informations.
Ib., § 3.

SEC. 26. He may, when, in his judgment, the interest of the State requires it, file and prosecute informations or other process against persons who intrude upon the lands, rights, or property of the State, or commit or erect any nuisance thereon.

To consult with and advise Solicitors.
Ib., § 4.

SEC. 27. He shall consult with and advise the Solicitors in matters relating to the duties of their offices; and when, in his judgment, the interest of the State requires it, shall assist them by attending the Grand Jury in the examination of any case in which the party accused is charged with a capital offence; and when, in his judgment, the interest of the State requires it, he shall be present at the trial of any cause in which the State is a party or interested, and, when so present, shall have the direction and management of such prosecutions and suits.

Enforce due application of funds. Prosecute corporations.
Ib., § 5.

SEC. 28. He shall enforce the due application of funds given or appropriated to public charities within the State, prevent breaches of trust in the administration thereof, and, when necessary, shall prosecute corporations which fail to make to the General Assembly the return required by law.

Attend General Assembly when required by either branch.
Ib., § 6.

SEC. 29. He shall, when required by either branch of the General Assembly, attend during their sessions, and give his aid and advice in the arrangement and preparation of legislative documents and business, and shall give his opinion upon questions of law submitted to him by either branch thereof, or by the Governor.

Give advice to State officers.
Ib., § 7.

SEC. 30. He shall, when required by the Secretary of State, Treasurer, Adjutant and Inspector General, the Comptroller General, or other State officer, consult and advise with them, respectively, on questions of law relating to their official business.

Report to General Assembly.
Ib., 88, § 8.

SEC. 31. He shall, annually, make a report to the General Assembly of the cases argued, tried or conducted by him in the Supreme Court and Circuit Courts during the preceding year, with such other information in relation to the criminal laws, and such observation and statements, as, in his opinion, the criminal jurisdiction and the proper and economical administration of the criminal law warrant and require.

Contingent expenses of civil actions to be paid and accounted for
Ib., § 9.

SEC. 32. On his representation, the Governor may draw his warrant on the Treasury to an amount not exceeding three hundred dollars in one year, for the contingent expenses of civil actions in which the State is a party or has an interest, for which sum he shall, annually, in October, account to the Governor; and he shall state the amount so expended in his annual report to the General Assembly.

SEC. 33. No prosecuting officer shall receive any fee or reward from, or in behalf of, a prosecutor, for services in any prosecution or business to which it is his official business to attend, nor be concerned as counsel or attorney for either party in a civil action depending upon the same state of facts.

No prosecuting officers to receive fees.
Ib., § 10.

SEC. 34. The Attorney General shall account with the Treasurer of the State for all fees, bills of costs, and moneys received by him by virtue of his office.

Attorney General to account with Treasurer for all fees, &c.
Ib., § 11.

SEC. 35. That, in all cases wherein the rights of the State may be involved, it shall be the duty of the persons claiming under the State to call on the Attorney General or Solicitors, in their respective districts, to defend the right of the State; on failure whereof, the record of such case shall not be adduced as evidence to substantiate any claim against the State.

Attorney General and Solicitors to defend the right of the State.
1808, V, 571, § 5

SEC. 36. It shall be the duty of the Attorney General and Solicitors to sue for the penalties incurred by any public officer or Board of public officers.

To sue for penalties incurred by any public officer.
1813, V, 709, § 23; 1814, V, 733, § 25; 1815, VI, 9, § 10; 1844, XI, 295, § 4.

SEC. 37. The Attorney General and Solicitors are required, annually, at such times as they may deem expedient, to examine into the condition of the offices of the Clerk of the Court of Common Pleas and General Sessions, of Sheriff, and Register of Mesne Conveyances, in their respective Counties, and to ascertain if the said officers have discharged the duties which now are, or shall be, required of them; and they shall make a report of the condition of the said offices, and of the manner in which the said officers have discharged their duties, to the Circuit Court in each County, respectively, at the Fall Term in each year, and also to the General Assembly at its annual session.

To examine County offices annually.
1837, VI, 577, § 2.

SEC. 38. The Solicitors shall attend the Courts of General Sessions and Common Pleas, for their respective Circuits.

Solicitors to attend Circuit Court.
1842, XI, 222, § 4; Con., Art. 4, § 29.

SEC. 39. Solicitors shall do the duty of the Attorney General, and give their counsel and advice to the Governor and other State officers, in matters of public concern, whenever they shall be, by them, required so to do, and assist the Attorney General, or each other, in all suits or prosecutions in behalf of this State, when directed so to do by the Governor, or called upon by the Attorney General. They may defend any person brought to trial before any criminal Court of this State, when their duty shall not require them to prosecute such persons, or their assistance be not required against such person by the Governor or Attorney General.

Solicitors' duties in general.
1791, VII, 274, §§ 10, 11.

May defend persons on trial when not required to prosecute.

To furnish Comptroller General statement of debts due the State.
1818, VI, 108, § 11.

SEC. 40. That it shall be the duty of the Solicitors, on the last day of October, in every year, to furnish the Comptroller General with a statement of all debts due to the State in their several possessions, showing the names of the debtors, the amount of debts, the interest, the payments made, and the balance due to the State; and if any of said officers fail to furnish the Comptroller General with such statement, he shall forfeit and pay the sum of two hundred dollars, to be recovered by action in any Court of law in this State having competent jurisdiction.

Penalty for neglect.

To prosecute offences against civil rights of citizens: failure to prosecute.
1870, 88, XIV, § 9.

SEC. 41. The several Solicitors of this State are hereby specially charged with the prompt and rigorous prosecution of offences against the civil rights of citizens; and every Solicitor who shall fail, in this respect, in the performance of his duty, shall be deemed to have committed a misfeasance in office, and, on conviction, shall forfeit his office, and be incapable of holding office for five years, and shall also pay a fine of five hundred dollars, and, in every case in which any Solicitor shall fail in his duty, the Attorney General shall make the most effective prosecution possible against him on behalf of the State; and neither any Solicitor nor the Attorney General shall settle or enter a *nol. pros.* in any such case, except by the consent of the Court.

The Attorney General to prosecute Solicitor.

Solicitors to furnish returns.
1819, VI, 139, § 14.

SEC. 42. That it shall be the duty of the Circuit Solicitors, in making their returns to the Comptroller General, as by law directed, to make out and deliver to him, at the same time, fair duplicates thereof.

Solicitors to give bond—amount.
1812, V, 675, § 3.

SEC. 43. That the Solicitors, before entering upon the duties of their offices, shall, respectively, give bond, with two good securities, to the State of South Carolina, in the penal sum of five thousand dollars, for the faithful discharge of the duties of their respective offices.

State Constable.

Appointment and confirmation May appoint assistants.
1868, XIV, 14, § 1.

SEC. 44. There shall be appointed by the Governor, and confirmed by the Senate, an officer to be named and designated the Chief Constable of the State, who shall be commissioned and hold office for four years, unless sooner removed by the Governor. He shall reside at the capital, and shall appoint in each County one Deputy Chief Constable, and as many Deputy Constables as the Governor may direct.

Powers and duties of Chief and Deputies
Ib., § 2.

SEC. 45. The Chief Constable of the State, and the Deputy Chief and Deputy Constables in the Counties, shall exercise all the common law and statutory powers of Constables, and all authority given to the police or watchmen by the statutes of the State, and by the charters and ordinances of incorporated towns and cities, concurrently with such officers. Said Chief Constable of the State, and Deputy Chief and Deputy Constables in the several Counties, shall, at all times, obey and execute the orders of the Governor in relation to the preservation of the public peace, and the execution of the laws throughout the State; and it shall be their duty to see that the laws are observed and enforced, and shall especially use their utmost effort and endeavor to repress disorder and prevent crime.

SEC. 46. The Chief Constable of the State shall be paid out of the Treasury of the State an annual salary of fifteen hundred dollars, in equal monthly payments; and the Deputy Constables in the Counties shall receive a compensation of three dollars per day when actually on duty. Whenever required to travel on duty, they shall be allowed, as compensation, the same amount which may be accorded by law to Sheriffs and their Deputies. The accounts of Deputy Chief Constables and Deputy Constables shall be verified by affidavits made and taken before a Justice of the Peace, Notary Public or Clerk of a Court of Record, and, after approval by the Governor, shall be audited and paid out of the Treasury.

Compensation: accounts, how paid.
Ib., § 3.

SEC. 47. The Governor shall cause to be made and published all needful rules and regulations for the government of the Constabulary force; and the Chief Constable of the State shall hold the Deputy Chief Constables and the Deputy Constables in the Counties ready, at all times, for the prevention of crime and enforcement of the laws of the State.

Rules; force to be always prepared to enforce the laws.
Ib., § 4.

SEC. 48. The Governor shall have authority, whenever, in his judgment, it shall be necessary, to arm the Constabulary, and, in any emergency, to assume the sole control of the whole, or any part, of the municipal police in cities and incorporated towns; and to authorize the Chief Constable of the State, or any Deputy Chief Constable, to command assistance in the execution of process, suppressing riots, and in preserving the peace.

Arming of force, suppression of riots, &c. Governor may assume control.
Ib., § 5.

Notaries Public.

SEC. 49. That the Governor be authorized to appoint as many Notaries Public, throughout the State, as the public good shall require, to hold their offices during the pleasure of the Governor, and whose jurisdiction shall extend throughout the State.

To be appointed by Governor — Term of office. Jurisdiction.
1871, XIV, 538, § 1.

SEC. 50. That every Notary Public shall take the oath of office prescribed by the Constitution, a certified copy of which oath shall be recorded in the office of the Secretary of State.

Oath.
Ib., § 2.

SEC. 51. That every Notary Public shall have a seal of office, which shall be affixed to his instruments of publication and to his protestations; but the absence of such seal shall not render his acts invalid, provided his official title be affixed.

Seal of office.
Ib., § 3.

SEC. 52. That Notaries Public shall have power to administer oaths, take depositions and affidavits, protests for non-payment, bonds, notes, drafts and bills of exchange, take acknowledgments and proofs of deeds, and other instruments required by law to be acknowledged, and take renunciation of dower and inheritance.

Power of Notaries Public.
Ib., § 4.
2 Bay., 416.

Not to act in criminal cases.
1872, VI, 387, § 8.

SEC. 53. That no Notary Public now in office, or hereafter appointed, shall exercise any power or jurisdiction in criminal cases.

Fees of Notaries Public.
1870, XIV, 389, § 3.

SEC. 54. That the fees of Notaries Public shall be as follows: For taking deposition and swearing witness, per copy sheet, twenty-five cents; for every protest, two dollars and twenty-five cents; for a duplicate of deposition, protest and certificate, per copy sheet, fifteen cents; for each attendance on any person to prove any matter or thing, and certifying the same, one dollar; for every notarial certificate, with seal affixed, one dollar; for administering an oath, twenty-five cents; for administering oath on affidavit, fifty cents; for taking renunciation of dower or inheritance, two dollars.

Commissioners of Deeds.

Governor to appoint.

Tenure of office.
1834, VI, 504, § 1.

SEC. 55. That the Governor of the State is authorized to appoint and commission, in the several States and Territories of the Union, and in the District of Columbia, as many persons as he may deem expedient, as Commissioners of Deeds, who shall hold their offices during the pleasure of the Governor.

To make oath to faithful performance of duties. Notice of appointment to be given.
Ib., 505, § 3.

SEC. 56. That every Commissioner, before he proceed to perform any duty, shall take and subscribe an oath or affirmation before any officer authorized to administer oaths in the city or County in which such Commissioner shall reside, well and faithfully to execute and perform all the duties of such Commissioner, under and by the laws of South Carolina, which oath or affirmation, and the written appointment of such Commissioner, shall be filed in the office of the Secretary of this State, who shall give notice of such appointment in one or more of the gazettes of this State.

Powers of.
Ib., § 1.

SEC. 57. A Commissioner of Deeds shall have authority to take the acknowledgment or proof of any deed, mortgage, or other conveyance of any lands, tenements or hereditaments, lying or being in this State, or of any contract, letter of attorney, or any other writing under seal, to be used and recorded in this State; and such acknowledgment or proof endorsed on, or annexed to the instrument to, which it refers, and certified by such Commissioner, under his seal, shall have the same force and effect, and be as good and available in law, for all purposes, as if the same had been made or taken before a Judge of this State.

To administer oaths.
Ib., § 2.

SEC. 58. That every Commissioner shall have full power to administer an oath or affirmation to any person who shall be willing or desirous to make such oath or affirmation before him; and such oath or affirmation, made before such Commissioner, shall be as good and effectual, to all intents and purposes, as if taken by any Trial Justice resident in this State, and competent to take or administer the same.

SEC. 59. That a Commissioner of Deeds shall have power and authority to take and certify renunciations of dower and inheritance, on the same terms and conditions as Judges, Trial Justices or Notaries Public are authorized to do by the laws of this State, and such renunciations, so taken and certified as aforesaid, shall as effectually convey such estates of dower and inheritance as if the same had been rendered in this State.

Have power to take renunciations of dower.

Ib., § 4.

CHAPTER XVII.

OF THE COMPTROLLER GENERAL, STATE TREASURER, STATE AUDITOR, LAND COMMISSIONER, COMMISSIONERS OF THE SINKING FUND, COMMISSIONER OF AGRICULTURAL STATISTICS, AND MATTERS OF FINANCE.

SEC.

Comptroller General.

1. Comptroller General to give bond; salary; office hours.
2. To keep books.
3. Treasurer's books to be open to Comptroller's inspection; Comptroller to examine cash in the Treasury.
4. To superintend transfer of money and papers from the Treasurer to his successor.
5. Estimates of revenue and expenditures and copies of Treasurer's reports to be rendered to the Legislature.
6. Drawing of warrants; warrants to express on what particular account money is due by State.
7. To report to the Legislature, annually, a balance sheet.
8. To prepare comparative statement of the taxes of every County.
9. To report contingent accounts.
10. To report debts due to State.
11. To report on the accounts of all disbursing agents.
12. To report names of pensioners.
13. To report unappropriated fund in the Treasury.
14. To examine account for transient poor, &c., of Charleston, and report same to Legislature.
15. Comptroller's books to be paid for by State.
16. To have bonds for officers printed and distributed.
17. To enforce upon County Treasurers performance of their duty.
18. Contingent accounts; how examined.
19. To keep books for the accounts of disbursing agents.
20. To refuse or withdraw insurance agents' licenses; when.
21. To publish monthly exhibits of the state of the banks.
22. To publish monthly statement of the circulation of banks.
23. To recover forfeitures and examine books of banks.

SEC.

24. To collate reports of railroad companies, &c.
25. To insure South Carolina University buildings.
26. To give insurance companies certificates, to be filed in County Clerk's office.
27. To keep bonds of insurance companies; identical bonds to be returned; State responsible therefor.
28. To furnish officers of State Executive Department with offices.

State Treasurer.

29. Salary of Treasurer and Chief Clerk.
30. Treasurer to give bond.
31. To keep records heretofore belonging to Treasurers of Upper and Lower Divisions.
32. Office hours.
33. To make reports.
34. To furnish official information when required by Comptroller.
35. To take duplicate receipts.
36. To commit defaulting County Treasurers to jail.
37. Defaulters to be charged with five per cent per month.
38. Not to draw checks on County Treasurers, except, &c.
39. To report to General Assembly defaulting Tax Collectors; to proceed against defaulters.
40. To make entry of and file Comptroller's warrants in his office.
41. To pay all persons, except annuitants, at Treasurer's office, Columbia.
42. Payments on contracts by Commissioners.
43. Appropriations for Commissioners; how to be drawn; proviso.
44. Payment of salaries of public officers.
45. Treasurer to pay apportionment of school fund to Counties according to certificate of Superintendent of Education; penalty for failure.
46. Payments to annuitants.

SEC.
47. To raise accounts for appropriations.
48. Copies from Treasurer's books to be evidence.
49. To give receipts, when; penalty for neglect to furnish
50. To deposit all moneys that may come into his hands.
51. Banks to make report of same to Governor and Comptroller General monthly.
52. Treasurer to draw money from banks, how.
53. Bank book to be examined.
54. Accounts to be closed annually; to be examined by Joint Committee.
55. Duties of Committee.
56. To compare warrants
57. A majority of members may perform duties of Committee.
58. Pay of members of Committee
59. Interest on stocks and bonds to be paid—how.
60. No public officer to be paid until duly commissioned and qualified.

State Auditor.

61. Governor to appoint State Auditor, with advice and consent of Senate.
62. Extension of time to tax officers.

Land Commissioner.

63. Advisory Board; Land Commissioner; his bond and salary.
64. Term of office To take oath.
65. The Advisory Board to Land Commissioner.
66. Duty of Land Commissioner.
67. Lands to be subdivided; sold to actual settlers; title; limit of quantity.
68. Receipts to be deposited; moneys to be invested in State bonds; Sinking Fund.
69. Books and records; annual report.
70. Purchases—how made.
71. None to be made that Commissioner will not be able to sell without delay.
72. Fees, mileage and per diem—how paid; clerical assistance.
73. Commissioner not to purchase from or sell to State any lands or speculate in them; punishable by fine and imprisonment for so doing.

Commissioners of Sinking Fund.

74. Governor and others to be Commissioners of Sinking Fund.
75. Commissioners to make annual reports to General Assembly.

SEC.

Commissioner of Agricultural Statistics.

76. Commissioner of Agricultural Statistics to be appointed by the Governor.
77. Duties of Commissioner.
78. To ascertain lands for sale.
79. To make publication thereof.
80. To answer inquiries as to resources of State.
81. Salary; clerk; expenses.
82. Reports.
83. To inspect fish streams, and report condition.
84. To report violations of fish law to Circuit Solicitors.
85. May inspect any point and call aid in case of resistance; penalty for refusing to assist.
86. To receive ten cents mileage.
87. May direct census takers to procure information.
88. To direct division of Counties into census districts.
89. May employ clerical assistance to make census returns
90. To provide blanks, &c., for census takers; census report.

Matters of Finance.

91. Bonds and stocks issued by Legislature to be uniform in design; Financial Agent in New York to arrange for same.
92. Bonds to be signed—by whom.
93. Financial Agent to be appointed; proviso.
94. Bonds to be sold by Financial Agent.
95. Financial Agent to pledge State bonds as collateral security for State loans; proviso.
96. Financial Agent to make reports.
97. Trust funds may be invested in State bonds; proviso.
98. No insurance company to carry on business until it has made a deposit of State bonds; Comptroller General may permit collection of interest thereon.
99. Insurance companies to be furnished with certificates of deposit
100. Not lawful for persons or associations to receive applications for insurance until bonds have been deposited; attorney for companies to be appointed; his duties.
101. Penalty for violation of Sections 98, 99 and 100; informer to receive half of penalty recovered.

Comptroller General.

Comptroller to give bond. Salary. Office hours.

1801, V, 410, § 11; 1868, XIV, 155, § 1; Con., Art III, § 23; 1801, V, 411, § 21.

SECTION 1. That the Comptroller General shall, before he enters upon the duties of his office, give bond for the faithful discharge of the duties thereof, with one or more securities, to be approved of by the Governor for the time being, in the sum of thirty thousand dollars. He shall receive an annual salary of three thousand dollars, and the fees and perquisites of the office shall be paid into the Treasury of the State. He shall keep open and attend to his office from nine o'clock in the morning until two o'clock in the afternoon, on every day, Sundays, the Fourth of July, and Christmas and the two next succeeding days excepted.

To keep books.

1801, V, 411, 18; 1831, VI, 511 § 3

SEC. 2. It shall be his duty to keep a book in which all appropriations by the General Assembly shall be entered, with all payments made under them; he shall also keep another book, properly indexed, in which he shall enter all contingent accounts allowed by the General Assembly, and the time at which payment on the same shall be made.

SEC. 3. That the books of the Treasurer of the State shall, at all seasonable times, be open to the inspection and examination of the Comptroller General, and he shall, twice in every year, and at such other times as he shall deem necessary, examine the cash in the Treasury at Columbia.

Treasurer's books to be open to his inspection. To examine cash in Treasury.
1801, V, 408, 409, §§ 1 and 4.

SEC. 4. He shall personally superintend, except in the event of his being sick and thereby rendered unable to attend, the transfer of money and papers from the office of the Treasurer to his successor, and report to the Legislature thereon at their next session.

To superintend transfer of money and papers to Treasurer's successor.
Ib., 409, § 4.

SEC. 5. That he shall prepare, and report at every session of the Legislature, estimates of the public revenue and public expenditures; and shall, at the same time, render fair and accurate copies of all the Treasurer's reports, and a true and accurate account of the actual state of the Treasury.

Estimates of revenue and expenditure, and copies of Treasurer's reports, to be rendered to the Legislature.
Ib., 408, § 1.

SEC. 6. That it shall not be necessary for the Comptroller General to draw any special or general warrants upon the Treasury, for any moneys required by law to be paid out of the Treasury, except such appropriations as may, by the Legislature, be ordered to be paid under his direction. All warrants drawn by him shall express on what particular account such money is due by the State; and it shall be his duty to take a receipt for, and copy of, every warrant issued by him, and to keep the same regularly filed or entered in his office.

Drawing of warrants — to express on what particular account money is due by state.
1821, VI, 171, § 11; 1801, V, 409, § 5.

SEC. 7. That the Comptroller General shall keep a set of books, exhibiting the separate transactions of the Treasury Department; which set of books shall be a transcript of the books of the Treasury, constituting a complete check upon that office; and the Comptroller shall, in addition to the exhibits of cash transactions of the Treasury, annually report to the Legislature a balance sheet of the books aforesaid, setting forth as well by whom debts are due to the State as the amount of those debts.

To report to Legislature a balance sheet annually.
1831, VI, 511, §§ 1 and 2.

SEC. 8. He shall prepare and present to the General Assembly, at an early period in every session, a correct and detailed statement of all the taxes, real and personal, for which each of the Counties of the State shall be liable under the tax Acts of each year. He shall, at the same time, report the amount of the local taxes collected in each County.

To prepare comparative statement of taxes of every County.
1808, V, 567, § 4; 1859, XII, 748, § 4.

SEC. 9. He shall examine and report on all contingent accounts to the General Assembly before the third Monday of each session.

To report contingent accounts.
1846, XI, 358, § 2.

SEC. 10. He shall lay before the General Assembly, with his annual report, a statement of all moneys due to the State (except the old bonds given for confiscated property.)

To report debts due the State.
1818, VI, 108, § 11.

To report on accounts of all disbursing agents.

1834, VI, 512, § 4; 1846, XI, 356, § 2.

SEC. 11. He shall examine and annually report to the General Assembly on the accounts of all persons having the distribution of public money.

To report names of pensioners.

1835, VI, 527, § 3.

SEC. 12. He shall make an annual report to the General Assembly of the names of the pensioners of the State.

To report unappropriated fund in Treasury.

1803, V, 458, § 30.

SEC. 13. The Comptroller General shall report, annually, to the General Assembly, his transactions in regard to unappropriated funds in the Treasury.

To examine account for transient poor, &c., of Charleston, and report same to Legislature.

1804, V, 488, § 22.

SEC. 14. He shall, annually, call on the Treasurer of the City Council of Charleston, to render an account, on oath, of the application of such money as is appropriated for the support of the transient poor, and other purposes, and shall lay the same before the General Assembly.

Comptroller's books paid for by State.

1818, VI, 109, § 15.

SEC. 15. That the books necessary for the office of Comptroller General be paid for out of the Treasury of the State.

To have bonds for officers printed and distributed.

1829, VI, 384, § 2.

SEC. 16. It shall be the duty of the Comptroller General to ascertain the number of officers in this State from whom bonds are required, and to cause an equal number of said bonds to be printed, annually, at the expense of the State, having thereon the blank forms for County Commissioners to approve securities, and for probate; and to distribute to each County, annually, a number of said bonds equal to the number of such officers in said County respectively.

To enforce upon County Treasurers performance of duty.

1808, V, 567, § 3.

SEC. 17. The Comptroller General shall immediately commence and pursue against all County Treasurers reported by the Treasurer as being in default in making their returns, such legal measures as will be best calculated to compel an immediate compliance with the duty imposed upon them in regard to such returns, and shall enforce the performance of their duty generally by all legal means.

Contingent accounts to be examined.

1846, XI, 356, § 2.

SEC. 18. Every contingent account against the State shall be lodged in the Comptroller's office, on or before the third day of the annual session; he shall examine and report on the same before the third Monday of the session, and no account shall be considered or acted upon by the General Assembly unless so examined and reported.

To keep books for the accounts of disbursing agents.

1834, VI, 512, § 4.

SEC. 19. He shall enter in books, kept for that purpose, such a statement of the accounts of persons having the distribution of public money, (directed by law to be rendered to him, as will enable him, at any time, to show how said accounts stand between the parties respectively.

SEC. 20. That if the Comptroller General shall become satisfied that any insurance company is insolvent or unsafe, it shall be his duty to refuse license to its agent or agents, and to withdraw any license that has been already issued.

To refuse or withdraw insurance agents' license, when.
1869, XIV, 206, § 4.

SEC. 21. The Comptroller General shall collate the various statements in the monthly returns made to him by the banks, so as to present a comparative view of all the items thereof, and shall publish the same in some public newspaper, for general information. Every bank failing to make such return shall forfeit to the use of the State, to be recovered by the Comptroller by action, twenty-five dollars for each and every day's neglect.

To publish monthly exhibits of the state of the banks.
1840, XI, 143, §§ 3, 4; 1869, XIV, 212, § 2.

SEC. 22. The Comptroller General shall, at least once in every month, collect the accounts of the weekly state of their circulation and specie, rendered by the several banks of issue, in conformity with law, and publish the same, so collected, in some newspaper, in the following form:

To publish a monthly statement of the circulation of the banks.
1858, XII, 700, § 6.

Weekly state of circulation and specie of Banks of issue in South Carolina from the day of to the day of eighteen hundred and

NAME OF BANK.			NAME OF BANK.			NAME OF BANK.		
Date.	Circulation.	Specie.	Date.	Circulation.	Specie.	Date.	Circulation.	Specie.

And any bank, the officers whereof shall neglect to transmit to the Comptroller General any such account aforesaid, shall forfeit one hundred dollars for each and every day during which the same shall be neglected, to be recovered by action, at the suit of the State.

SEC. 23. It shall be the duty of the Comptroller General, whenever it appears that any bank, or any officer of a bank, has incurred any forfeiture for an official misconduct, to cause suit to be brought against such bank or officer, by the Attorney General or the Solicitor of the Circuit in which such bank is situated, for the recovery of the same. And in case he shall, at any time, have cause to suspect that a false or incorrect account has been rendered to him by any bank, he shall have authority, and it shall be his duty, to make a personal examination of the books of such bank, in order to ascertain the truth; and any officer of a bank who shall refuse to submit the books of said bank to the Comptroller General for such examination, shall be deemed guilty of a misdemeanor, and be subject to fine and imprisonment, at the discretion of the Court.

To recover forfeitures, and examine the books of banks.
1840, XI, 145, § 5; 1857, XII, 632, § 4.

SEC. 24. The Comptroller General shall collate the reports of railroad companies annually made to him, in one general abstract, and publish the same in his annual report. He shall, also, report any railroad company failing to report to him according to law.

To collate reports of railroad companies, &c.
1861, XIII, 67, § 3.

To insure S. C. University buildings.
1869, VI, 159, § 15.

SEC. 25. That the Comptroller General shall, annually, insure against fire, the buildings of the University of South Carolina.

To give insurance companies certificates, to be filed with County Clerk.
1869, XIV, 305, § 3.

SEC. 26. When insurance companies shall have complied with the requirements of the law, the Comptroller General shall give a certificate to that effect, and also state the names of their attorneys; which certificate, when filed in the County Clerk's office, of the County where the agency is to be located, shall be the authority to commence business.

To keep bonds of insurance companies. Identical bonds of companies to be returned, state responsible therefor.
Ib., § 5.

SEC. 27. The Comptroller General shall safely and separately keep the bonds or stocks of each insurance company or corporation, and shall return the identical bonds or stocks received; and, during the usual office hours, shall keep the bonds or stocks subject to examination of the representative of any company or association having made a deposit; and the State shall be responsible for the return of all of said bonds or stocks by the Comptroller General.

To furnish the officers of State Executive Department with offices.
Joint Resolution, 1869, XIV, 289, § 1, 2.

SEC. 28. That the Comptroller General of the State be authorized and directed, upon his receipt of a written application from any officer of the State Executive Department, to provide and furnish an office for the use of said officer, and the expense thereof shall be paid by the State Treasurer, out of the contingent fund of the State, on the warrant of the Comptroller General.

State Treasurer.

Salary of the Treasurer and his Chief Clerk.
Con., Art. III, § 23; 1868, XIV, 136, § 1.

SEC. 29. That the Treasurer of the State shall receive an annual salary of two thousand five hundred dollars, and his Chief Clerk, to be appointed with the approval of the Governor, shall receive an annual salary of eighteen hundred dollars.

Treasurer to give bond.
1865, XIII, 350, § 5.

SEC. 30. The Treasurer shall, before entering on the duties of his office, give bond, with two or more good and sufficient sureties, to be approved by the Governor, with a condition for the faithful discharge of his official duties, in which he and his sureties shall be jointly and severally bound to the State of South Carolina, in the penal sum of ninety thousand dollars.

To keep former records of Upper and Lower Divisions.
Ib.

SEC. 31. It shall be the duty of the Treasurer to keep all the records, books and papers heretofore belonging to the Treasurer of the Upper Division, and to the Treasurer of the Lower Division, in his office at Columbia.

Office hours.
1869, V, 411, § 21.

SEC. 32. The Treasurer shall keep open and attend in his office from nine o'clock in the morning, until two in the afternoon, on every day, Sundays, the Fourth of July and Christmas and the two succeeding days excepted.

SEC. 33. That the Treasurer shall, at the end of every month, report to the Comptroller General an accurate statement of the cash transactions of the Treasury, of every description. In the said reports he shall state the amount of every sum of money which he may receive or pay away in behalf of the State, particularizing the person and his office of whom he receives, and to whom he pays, as also on what account he has received, and for what purpose he has paid, such sums.

To make reports.
Ib., 409, §§ 4, 15; 1803, V, 458, § 26.

SEC. 34. The Treasurer shall, at all times, when thereto required by the Comptroller General, produce to him satisfactory statements of the cash in hand, and furnish him promptly with official information, duly certified, relative to any matter connected with the revenue and finances of the State.

To furnish official information when required by Comptroller.
Ib., § 27.

SEC. 35. On making payment of the salaries of any officer of the State, the Treasurer shall take a duplicate receipt, and forward the same, with his monthly report, to the Comptroller General.

To take duplicate receipts.
1843, XI, 247, § 11.

SEC. 36. Any County Treasurer who shall neglect to pay over to the Treasurer the amount in his hands belonging to the State, or for which he has made himself liable, as required by law, shall be liable to be committed to jail by a warrant from the Treasurer, which warrant shall be directed to all the Sheriffs of the State, who shall be bound in their several Counties to yield strict obedience to the same, under penalty of liability for neglect of duty; and such County Treasurer shall remain in strict custody until he shall have rendered a full account, and paid over the taxes for which he is accountable.

To commit defaulting County Treasurers to jail.
1788, V, 54, § 14. Amended by Commissioners.

SEC. 37. If any County Treasurer shall refuse or neglect to pay the taxes received by him within the time required by law, the Treasurer shall, in addition to the coercive power which he now possesses, charge the County Treasurer with interest, at the rate of five per cent. per month, from the time he ought to have paid the taxes, to the time of such settlement.

Defaulters to be charged with five per cent. per month.
1843, XI, 247, § 9.

SEC. 38. The Treasurer shall not draw any order or check, or make any draft on any County Treasurer, in favor of any person having any claim against the State, except as provided in Section 46 of this Chapter.

Not to draw check on the County Treasurer, except, &c.
1803, V, 454, § 6.

SEC. 39. The Treasurer shall report to the General Assembly, at its annual session, every instance of default in the County Treasurers, and state particularly the means which he has made use of against such defaulters, so that the General Assembly may be fully informed of any omission of duty, wheresoever and by whomsoever, in the punctual and due collection of taxes; he shall instruct the Attorney General and Solicitors to proceed against all such defaulters, as soon as such defaults shall occur; and it shall be the indispensable duty of the Treasurer to enforce all legal means against defaulting County Treasurers; in failure whereof, he shall be held to make good any loss which the State may

To report to General Assembly defaulting County Treasurers.
1801, V, 411, § 19.

To proceed against defaulters.
1803, V, 455, § 12.

sustain thereby, and be, moreover, liable to be deemed guilty of a violation of his official duty.

To make entry of, and file Comptroller's warrants in his office.

1821, VI, 171, § 1; 1801, V, 409, § 5

SEC. 40. It shall not be necessary for the Comptroller General to draw any special or general warrant upon the Treasurer for any money required by law to be paid out of the Treasury, except such appropriations as may, by the Legislature, be ordered to be paid under his direction. Warrants drawn by the Comptroller shall express on what particular account money is due by the State; and the Treasurer, after making a proper entry of each warrant, shall keep the same regularly filed in his office.

To pay all persons except annuitants at Treasury office at Columbia.

1803, V, 454, § 9.

SEC. 41. The Treasurer shall not make payment to any person having a demand against the State, even though allowed by law and provided for by the General Assembly, but at the Treasury office, at Columbia, except payments to annuitants.

Payments on contracts by Commissioner.

1824, VI, 259, § 7.

SEC. 42. No appropriation placed under the direction of any Board of Commissioners shall be drawn from the Treasury until the contract entered into by the Commissioners in virtue thereof shall have been lodged in the Treasury office at which such appropriation is payable.

Appropriations for Commissioners, how to be drawn. Proviso.

Ib., §§ 8, 9.

SEC. 43. The Commissioners shall be authorized to draw one-third of the appropriation placed under their direction in advance, one-third when the contract is half finished, and the balance when the work is completed and received by the Commissioners: *Provided*, That in no case shall Commissioners be allowed to draw upon any contract which is not intended to carry into complete execution all the objects for which the appropriation shall be made by the Legislature, and which objects shall be embraced by the terms of the contract.

Payment of salaries of Public Officers.

1869, XIV, 204, § 4; 1843, XI, 247, § 11.

SEC. 44. The Treasurer shall pay, at the end of each quarter, all appropriations made on account of any officer of this State, except officers of each branch of the General Assembly, who shall be paid by the Treasurer at the end of each session; and except the pay bills of the Solicitors in attendance, which shall be paid on presentment at the Treasury.

Treasurer to pay apportionment of school fund to Counties. Penalty for failure.

1871, XIV, 559, §§ 1, 3

SEC. 45. Within fifteen (15) days after the apportionment, by the State Superintendent of Education, of the State School Fund, and the annual taxes collected by the State, for the support of schools, the State Treasurer shall pay the several County Treasurers the apportionment of the fund and taxes aforesaid belonging to their respective Counties, according to the certificate of the State Superintendent of Education; and any violation of this Section by the State Treasurer shall constitute, and it is hereby declared, a misdemeanor; and, on conviction thereof, the said State Treasurer shall pay a fine of not less than five hundred (500) dollars, nor more than five thousand (5,000) dollars, to be used for school purposes in the County suffering from such violation, or imprisonment, in the discretion of the Court.

Payments to annuitants.
1799, V, 368, §§3, 4

SEC. 46. The Treasurer is authorized to draw orders on the County Treasurer of the Counties in which each of the annuitants entitled to the public money may reside, in his or her favor, for the amount which may be due; but the Treasurer shall not draw any such order until the person applying for such order shall produce a certificate of his being entitled to such annuities, and shall also produce, or cause to be produced, a certificate, signed by one member of the Legislature and two Trial Justices, that the person in whose favor the order is to be drawn is still living, and stating in what County he or she resides.

To raise accounts for appropriations.
1803, V, 458, § 29.
1 S. C. Rep., 16.

SEC. 47. The Treasurer shall raise an account in the Treasury books, in every instance, for the several appropriations made by the Legislature, so that the appropriations of money and application thereof, conformably thereto, may appear clearly and distinctly on the Treasury books.

Copies from Treasurer's books to be evidence.
1801, V, 411, § 22.

SEC. 48. An exact copy of any entry from the books of the Treasurer, certified by the Treasurer, shall be admitted in evidence in any Court of this State, in the same manner as the original books.*

To give receipts, when; penalty for neglect to furnish.
1815, VI, 23, § 4.

SEC. 49. The Treasurer, on receiving any money from the County Treasurers, on account of State taxes, shall give to such County Treasurers triplicate receipts therefor; and on receiving any money from any other person shall give him or her two receipts for the same; and in case the Treasurer shall neglect to furnish receipts as aforesaid, he shall forfeit and pay a sum not exceeding two hundred dollars, nor less than fifty dollars, to be recovered in any Court having jurisdiction thereof; and the Comptroller General, upon information made to him, shall take the necessary measures to cause the same to be recovered.

To deposit all moneys that may come into his hands.
1868, XIV, 15, § 1.

SEC. 50. The Treasurer of the State of South Carolina shall deposit all moneys that shall come to his hands, on account of this State, within three days, Sundays exclusive, after receiving the same, in such bank or banks in the cities of Columbia and Charleston as shall be designated by the Governor, Comptroller General and Treasurer, or any two of them, and as, in their opinion, shall be secure, and pay the highest rate of interest for such deposit. The moneys so deposited shall be placed to the account of the Treasurer, and he shall keep a bank book, in which shall be entered his account of deposits in, and moneys drawn from, the banks in which such deposits shall be made.

Banks to make report of same monthly.
Ib., § 2.

SEC. 51. The said banks shall, respectively, transmit to the Governor and Comptroller General monthly statements of the moneys which shall be received and paid by them on account of the Treasury.

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*NOTE.—The word "Comptroller" has been stricken out of this Section, and the word "Treasurer" inserted. The Treasurer should certify as to his own books, as he has better knowledge of them.

Treasurer to draw money from banks; how.
Ib., § 3

SEC. 52. The Treasurer shall not draw any moneys from such banks, unless by checks, subscribed by him as Treasurer, and countersigned by the Governor; and no moneys shall be paid by either of the said banks, on account of the Treasury, except upon such checks.

Bank book to be examined.
Ib, 16, § 4.

SEC. 53. The Treasurer shall exhibit his bank book to the Comptroller General and Governor, for their examination, on the first Tuesday in every month, and oftener, if required.

Accounts to be closed annually.
To be examined by Joint Committee.
Ib., § 5

SEC. 54. The accounts of the Treasurer shall be annually closed on the thirtieth day of October, and shall be examined during the months of November and December, in each year, by a Joint Committee, consisting of one member of the Senate and two of the House of Representatives, to be appointed by a concurrent resolution of the two Houses of the General Assembly, at the session previous to said time of examination in each year.

Duties of Committee.
Ib., § 6.

SEC. 55. Such Committee shall examine the accounts, and the vouchers relating to all moneys received into and paid out of the Treasury during the year ending on the thirtieth of October preceding such examination, and shall certify and report to the General Assembly, at its next session after the said thirtieth day of October, the amount of moneys received into the Treasury during such year; the amount of moneys paid out of it during the same period, by virtue of warrants drawn on the Treasury by the Comptroller General or any other officer; the amount of moneys received by the Treasurer, who shall be in office at the time of such examination, when he entered upon the execution of the duties of his office; and the balance in the Treasury on the thirtieth day of September preceding such examination.

To compare warrants.
Ib., § 7.

SEC. 56. Such Committee shall also compare the warrants drawn by the Comptroller General, or any other officer, on the Treasury during the year ending on the said thirtieth day of October preceding, with the several laws under which the same shall purport to have been drawn, and shall, in like manner, certify and report whether the Comptroller General or other officer had power to draw such warrants; and if any shall be found, which, in their opinion, there was no power to draw, they shall specify the same in their report, with their reasons for such opinion.

Majority may act.
Ib., § 8.

SEC. 57. That a majority of the members of such Committee may perform all the duties required, by law, of the Committee.

Pay of members of Committee.
Ib., § 9.

SEC. 58. The members of the Committee shall receive the same compensation from the Treasury, for services and travel required to be performed by them, as is allowed to members of the General Assembly.

SEC. 59. That the interest on the bonds and stocks of this State, except those issued during the period from December first, eighteen hundred and sixty, to April nineteenth, eighteen hundred and sixty-five, shall be paid in gold or silver coin: *Provided*, That the interest on bonds issued for the building of the New State House shall not be excluded from being paid in coin by any provision of this Section. For this purpose the Treasurer of the State is hereby authorized and required to make the necessary exchanges, through the Financial Agent of the State in New York.

Interest on bonds and stocks to be paid; how.
1869, XIV, 303, §§ 1, 2.

SEC. 60. No executive, judicial, or other officer, elected or appointed to any office in the State, shall be entitled to receive any pay or emoluments of office until he shall have been duly commissioned and qualified.

No officer paid until commissioned and qualified.
1868, XIV, 136, § 2.

State Auditor.

SEC. 61. The Governor is authorized, by and with the advice and consent of the Senate, to appoint the State Auditor to perform the duties prescribed by law, and to require such bond from said officer as he may deem necessary. The State Auditor shall hold his office during the pleasure of the Governor. He shall receive a salary of twenty-five hundred dollars per annum, and be authorized to employ a clerk at the rate of one thousand dollars per annum.

Governor to appoint Auditor, &c., with advice of Senate; salary, &c. (See Chapters XII and XIII, for duties of Auditor.)
Ib., 66, § 145; 1869, XIV, 246, § 1.

SEC. 62. If any of the duties required to be performed in Chapters XII and XIII, or before a certain day, by any officer therein named, cannot, for want of proper time, be so performed, the State Auditor, with the approval of the Governor, upon proper evidence of the necessity of the same, may extend the time as long as may be necessary therefor.

Extension of time to tax officers.
1868, XIV, 67, § 147.

Land Commissioner.

SEC. 63. That the Advisory Board created by law is authorized and required to appoint a suitable person, to be known as the Land Commissioner of the State of South Carolina; said Commissioner, before entering upon the duties of his office, shall execute to the State of South Carolina a written undertaking, with good and sufficient surety, in the penal sum of twenty thousand dollars, for the faithful discharge of the duties of his office; said undertaking to be approved by the Advisory Board, and filed in the office of the Secretary of State. His salary shall be at the rate of two thousand dollars per annum while on duty.

Advisory Board.
Land Commissioner.
Bond.
Salary.
1869, XIV, 275, § 1.

SEC. 64. That said Land Commissioner shall hold his office at the pleasure of the Advisory Board, and, before entering upon the duties of his office, shall take and subscribe the oath prescribed in the thirtieth Section of Article II of the Constitution, which oath shall be filed in the office of the Secretary of State.

Term of office. To take oath.
Ib., § 2.

The Advisory Board to Land Commissioner.
Ib., § 3.

SEC. 65. That the Governor, Comptroller General, State Treasurer, Secretary of State and Attorney General are declared to be an Advisory Board to the Land Commissioner; and said Commissioner shall, in all the duties imposed upon him by the provisions of this Chapter, be governed by their instructions and advice.

Duty of the Commissioner.
Ib., § 4.

SEC. 66. That it shall be the duty of the said Land Commissioner to purchase, or cause to be purchased, any lands in any portion of the State, improved or unimproved, at such price as the said Advisory Board may determine, not to exceed, in the aggregate amount, in any one fiscal year, the par value of the bonds of this State created by the General Assembly for this purpose.

Lands to be sub-divided.

Sold to actual settlers.

Terms.

Titles.

Limit of quantity.
Ib., 276, § 6.

SEC. 67. All lands purchased by said Land Commissioner shall be sub-divided into sections, containing not less than twenty-five nor more than one hundred acres, to be sold to actual settlers, subject to the condition that one-half thereof shall be placed under cultivation within five years from the date of such purchase, and that the purchaser shall, annually, pay interest, at the rate of six per cent. per annum, upon any moneys remaining unpaid, and also all taxes imposed thereon by the authority of the United States, or of this State. And, in addition thereto, shall, in every year after the third, from the date of said purchase, pay one-fifth of the principal. The title to said land shall remain in the State until the amount of said purchase shall be paid, principal and interest; but a certificate of such purchase shall be assignable at three years from date thereof: *Provided*, That, in every case where a person purchases more than one section of fifty acres, he shall pay on such excess one-fourth cash, and the balance to be paid in equal annual installments of one-fourth the amount of purchase each year: *Provided*, That no person shall be entitled to purchase, in his own name, or for his own use, more than one hundred acres.

Receipts to be deposited.

Moneys to be invested in State bonds.

Sinking fund.
Ib., § 7.

SEC. 68. It shall be the duty of the said Land Commissioner to deposit with the Treasurer of the State all moneys collected by him as interest due upon the sale of said lands, which shall be used by the Treasurer of the State in the payment of the interest on the stocks and bonds of the State issued for the purchase of said lands, and to invest in bonds of this State all moneys received by the Land Commissioner in payment for said lands as principal; said State bonds to be deposited with the Treasurer of the State, to constitute a sinking fund for the final payment and redemption of all stocks or bonds issued by the State for the purchase of said lands. The interest accruing on the bonds of the said sinking fund shall be applied to the payment of the interest upon the stocks or bonds of the State issued for the purchase of lands.

Books and records.

Annual report.
Ib., § 8.

SEC. 69. The books and records of the office of the said Land Commissioner shall, at all times, be subject to the inspection of the Advisory Board, or any member thereof; and the said Land Commissioner shall, annually, make a detailed report of the transactions of his office to the General Assembly.

Purchases; how made.
1870, XIV, 388, § 2.

SEC. 70. The Land Commissioner shall be subject to the action of a majority of the Board, and any purchase or sale of property made without their advice or consent shall not be valid.

Must be able to sell without delay.
Ib., § 3.

SEC. 71. That no purchase shall be made without the certain knowledge of the Commissioner that he will be able to sell the same without delay.

Fees, mileage and per diem; how paid.

Clerical assistance.
Ib., 276, § 9.

SEC. 72. The said Land Commissioner, in addition to the compensation hereinbefore prescribed, shall receive such fees as the Advisory Board may prescribe, not to exceed, in the aggregate, for each title, the sum of ten dollars, the cost of all other papers included. Said fees, also mileage and per diem of the Land Commissioner, shall be paid out of the contingent fund of the State, to be paid by the Treasurer, on the certificate of the Advisory Board. And the Land Commissioner shall be allowed such clerical assistance as may be authorized by the Advisory Board, which shall be paid in the same manner.

Commissioner not to purchase from or sell to State lands; punishable for so doing.
Ib., 277, § 10.

SEC. 73. The said Land Commissioner shall not purchase from, or sell to, the State any land, neither shall he engage in speculations in lands, either on his own account or as agent for other persons or corporations, and, upon conviction thereof, for every such offence, shall be fined and imprisoned at the discretion of the Court.

Commissioners of the Sinking Fund.

Governor and others to be Commissioners.
(See § 3, Chap. 5, Title 1.)
1870, XIV, 388, § 1.

SEC. 74. For the purpose of paying the present indebtedness of the State, and the interest thereon, and such further indebtedness as may hereafter be contracted by the State, the Governor, the Comptroller General and the Attorney General of the State, the Chairman of the Finance Committee of the Senate, and the Chairman of the Committee of Ways and Means of the House of Representatives, are hereby constituted Commissioners, to be known and designated as "The Commissioners of the Sinking Fund," to receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State.

Commissioner to make annual reports to General Assembly.
Ib., § 3.

SEC. 75. The Commissioners shall, annually, report to the General Assembly the condition of the Sinking Fund, and all sales or other transactions connected therewith; and all the revenues derived from such sales shall be applied to the extinguishment of the public debt, by investing the same in the public securities of the State.

Commissioner of Agricultural Statistics.

Commissioner of Agricultural Statistics to be appointed by the Governor.
1868, XIV, 115, § 1.

SEC. 76. That, for the purpose of encouraging, promoting and protecting industrial enterprises in this State, and of supplying truthful information to the people of the United States, and inducing them to bring hither their capital and aid in the development of the resources of South Carolina, the Governor is authorized to establish a Bureau of Agricultural Statistics, and to appoint a Commissioner thereof to perform such duties as may appertain to the office.

Duties.
Ib., § 2

SEC. 77. It shall be the duty of the said Commissioner to collect all the information practicable concerning lands, crops, climate, railroads, telegraphs, manufactories, water powers, schools, churches, and other institutions in the several Counties of the State, and preserve a record of the same, in such manner that the facts relating to any locality may be promptly communicated to the inquirer.

To ascertain lands for sale, &c.
Ib., § 3.

SEC. 78. That the said Commissioner shall be specially charged to ascertain, by advertisement or otherwise, the location of lands for sale, and to cause said lands, after having been duly laid off and described, to be registered, together with the price demanded and the conditions of payment.

To make publication thereof
Ib., § 4.

SEC. 79. That the said Commissioner shall, by official publications in the journals of the North and West, by correspondence and pamphlets, convey this information, describe the lands thus offered for sale, and the advantages which this State offers in soil, climate, productions, etc., to the industrious and frugal citizen, and, at the same time, invite him to bring hither his means, and aid in the promotion of general prosperity.

To answer inquiries as to resources of State.
Ib., § 5.

SEC. 80. That the said Commissioner shall be charged with the duty of answering all communications on the subject of the resources of the State that may be referred to him, and do all in his power to encourage the influx of capital and the growth of new enterprise.

Salary.

Clerk.

Expenses.
Ib., § 6.

SEC. 81. That the Commissioner shall be paid for his services the salary of fifteen hundred dollars per annum, and be authorized to employ a clerk, at a salary not exceeding five hundred dollars per annum; the said sums, together with the necessary expenses of the office, such as printing, advertising, registry books, postage, stationery, rent, etc., to be paid out of any moneys in the Treasury not otherwise appropriated.

Reports.
Ib., § 7.

SEC. 82. That the said Commissioner shall make a report of his proceedings, and a special report on railroads and telegraphs, to the Governor of the State, annually, or as often as he may require.

To inspect fish streams and report condition to Legislature.
J. R. 187, XIV, 417, Sub. 2.

SEC. 83. It shall be the duty of said Commissioner to inspect all inland streams that are large enough for migratory fish to ascend, and report to the Legislature, at its next regular session, what obstructions are necessary to be removed, and over what natural waterfalls or artificial dams it may be expedient for fishways to be constructed, and what impurities are allowed to flow into, or are cast into, the streams, that are poisonous to fish or destructive to their spawn.

To report violations of fish laws to Solicitors
Ib., 3.

SEC. 84. It shall be his duty to report to the Solicitors in the respective Circuits where such offences may be committed, all parties who may be violating the fish laws of the State; and it shall be the duty of such Solicitor to prosecute all persons so reported.

SEC. 85. Said Commissioner is authorized and empowered to visit, at all times, and inspect any point he may deem necessary for purposes mentioned in Sections 83 and 84 of this Chapter, and is empowered to call to his assistance so many persons as he may deem necessary, in case of resistance; and any person refusing to give assistance shall be liable to a fine of not less than ten nor more than fifty dollars, to be recovered in any Court of competent jurisdiction in the State.

May inspect any point and call aid in case of resistance.

Penalty for refusing to assist

Ib., 4.

SEC. 86. In the performance of the duties required or authorized by Sections 83, 84 and 85 of this Chapter, said Commissioner shall receive ten cents per mile for each mile traveled in the discharge of such duties; such expenses to be paid out of any money in the Treasury not otherwise appropriated.

To receive ten cents mileage.

Ib., 5.

SEC. 87. The Commissioner shall have authority to direct any person appointed to take the census to call, personally, on the head, or some member, of each family in the district for which he shall have been appointed, and obtain such information as said Commissioner may require.

May direct census takers to procure information

1888, XIV, 231, § 3.

SEC. 88. The Commissioner shall direct the division of each County, by the census takers thereof, into convenient districts for taking the census; and he may require of such census takers any further assistance in the premises as he may desire.

To direct division of Counties into census districts.

Ib., § 4.

SEC. 89. He shall be authorized to employ clerical service to assist him in collating and making the census returns; such service to be paid for out of the contingent fund of his Bureau, but not to exceed three hundred dollars.

May employ clerical assistance to make census returns.

Ib., 231, § 9.

SEC. 90. It shall be the duty of the Commissioner to have prepared suitable books, blanks and instructions to facilitate the taking of the census, and the collection of such statistical information as he may deem of sufficient importance to the people of the State. He shall immediately report the results of the census registration to the Governor, and shall make a collated return of the statistics to the next regular session of the General Assembly.

To provide blanks, &c., for census takers.

Census report

Ib., 230, § 7.

Matters of Finance.

SEC. 91. All bonds or stocks authorized to be issued by the Legislature shall be of uniform character in design; and to secure this result the Financial Agent in New York shall make all necessary arrangements for the same.

Bonds, &c., to be uniform in design; Financial Ag't in New York to arrange for same.

1888, XIV, 22, 6.

SEC. 92. That all bonds issued shall be signed by the Governor and countersigned by the State Treasurer; and all such obligations shall be under the seal of the State. The coupons shall be signed by the State Treasurer, and executed in such manner as may be designated by the Governor.

Bonds to be signed, by whom.

1888, XIV, 17, § 3; 18, § 3; 1888, XIV, 252, § 1

Financial Agent to be appointed.

Proviso.

1868, XIV, 18, § 5.

SEC. 93. That the Governor, Attorney General and Treasurer are authorized to appoint, under a commission signed by them, some responsible bank or banker, in the city of New York, to act as Financial Agent of the State, to be subject to their direction and control: *Provided*, That the expenses of such Financial Agency shall not exceed the rates paid by other States for like services.

Bonds to be sold by Financial Agent.

Ib., 17, § 5; 1869, XIV, 258, § 1.

SEC. 94. That the bonds of the State, authorized to be sold, shall be sold at the highest market price by the Financial Agent of the State in the city of New York, and at not less than for a sum to be fixed by the Governor, Attorney General and Treasurer; and they are further authorized to pay such sums of money as may be necessary to effect the purposes hereof out of any funds of the State not otherwise appropriated.

Financial Ag't to pledge bonds as security for State loans.

Proviso.

Ib., 258, § 1.

SEC. 95. The said Financial Agent is authorized to pledge the bonds of the State, as collateral security for State loans: *Provided*, That in all transactions he shall conform to the provisions of the 94th Section of this Chapter.

Financial Agt to make reports.

Ib., § 3.

SEC. 96. The said Financial Agent shall make and forward to the Comptroller General of the State a report of his transactions, quarterly, which report the Comptroller General shall include with his annual report to the General Assembly.

Trust funds may be invested in State bonds.

Proviso.

1870, XIV, 404, § 1.

SEC. 97. That guardians, trustees, administrators, executors, Probate Judges and Clerks of Courts, and all other persons holding funds in trust for investment, are authorized to invest the same in bonds of the State of South Carolina. And they are hereby relieved from all responsibility for said investment, except for the safe keeping of the bonds: *Provided*, That, as to officers of the Court, there be no order of the Court directing a different investment.

No insurance company to carry on business until deposit of State bonds with Comptroller General.

Collection of interest.

Ib., 304, § 1.

SEC. 98. No company or association which is now organized, or which may be hereafter organized in this State, to carry on the business of insurance of any kind or kinds, shall proceed further with business or to business (as the case may be) until they have deposited with the Comptroller General of this State bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each life insurance company or association, and twenty thousand dollars par value for each other insurance company or association. The Comptroller General shall hold such bonds or stocks as security for policy holders in said company or association; but, so long as any company or association so depositing shall continue solvent, the Comptroller General may permit such company to collect and receive the interest on such bonds or stocks so deposited.

Insurance companies to be furnished with certificates of deposit.
1870, XIV, 304, § 2.

SEC. 99. Whenever any insurance company or association is, or shall become, fully organized, and the said company or association have deposited with the Comptroller General the requisite amount of State bonds or stocks, it shall become his duty to furnish the corporation or association with a certificate of such deposit, which certificate, or a duplicate thereof, certified by the Comptroller General, may be used in and be evidence for and against the corporation in all suits.

Not lawful for persons or associations to receive applications for insurance until bonds have been deposited.
Ib., § 3.

SEC. 100. It shall not be lawful for any person or persons, corporation or corporations, association or associations, to act within this State as agent, or otherwise, in receiving or procuring applications for insurance of any kind or kinds, or in any manner to solicit any one to insure, or in any manner to aid in transacting the business of insurance of any kind or kinds for any company or association incorporated by, or organized under, the laws of this or any other State Government, or any foreign government, until such company or association have deposited with the Comptroller General of this State, for the benefit of the policy holders of such company or association, citizens or residents of the United States, bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each life insurance company or association, and twenty thousand dollars par value for each other insurance company or association; but so long as any company or association so depositing shall continue solvent, the Comptroller General may permit such company or association to collect and receive the interest on such bonds or stocks so deposited, and have appointed an attorney in this State on whom process of law can be served; and said attorney shall have filed with the Comptroller General a certified copy of the charter of said company or association, and also a certified copy of the vote or resolutions of the Trustees or Directors of such company or association appointing him the attorney of such company, which appointment shall continue until another attorney be substituted; which shall be done upon the death, removal, or incapacity to act of such attorney, or may be done by such company or association at any time.

Attorney for company to be appointed.

His duties.

Penalty for violation of §§ 98, 99, 100.
Ib., 305, § 4.

SEC. 101. Every violation of the provisions of Sections 98, 99 and 100, of this Chapter, shall subject the company or association, or agent or agents violating, jointly and severally, to a penalty of five hundred dollars for each violation, which shall be sued for and recovered in a joint or several civil action, in the name of the State of South Carolina, by the Solicitor of the Circuit in which the company or association, or agent or agents so violating, shall be situated; one-half of such penalty, when recovered, shall be paid into the County Treasury of such County, and the other half to the informer of such violation; and in case of the non-payment of such penalty, the person or persons so offending shall be liable to imprisonment for a period not exceeding one year, in the discretion of the Court having cognizance thereof.

Informer to receive half of penalty recovered.

TITLE VI.

OF COUNTIES AND COUNTY OFFICERS.

CHAPTER XVIII. *Of Counties and their Corporate Powers.*
XIX. *Of County Commissioners; their Powers and Duties.*
XX. *Of County Sheriff.*
XXI. *Of County Coroner.*
XXII. *Of Clerk of Court of Common Pleas and General Sessions.*
XXIII. *Of Register of Mesne Conveyance.*
XXIV. *Of Judge of Probate.*
XXV. *Of Trial Justices.*
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CHAPTER XVIII.

OF COUNTIES AND THEIR CORPORATE POWERS.

SEC.
1. Division of State into Counties.
2. Abbeville County; location and boundaries.
3. Aiken County; location and boundaries.
4. Anderson County; location and boundaries.
5. Barnwell County; location and boundaries.
6. Beaufort County; location and boundaries.
7. Charleston County; location and boundaries.
8. Chester County; location and boundaries.
9. Chesterfield County; location and boundaries.
10. Clarendon County; location and boundaries.
11. Colleton County; location and boundaries.
12. Darlington County; location and boundaries.
13. Edgefield County; location and boundaries.
14. Fairfield County; location and boundaries.
15. Georgetown County; location and boundaries.
16. Greenville County; location and boundaries.
17. Horry County; location and boundaries.
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19. Lancaster County; location and boundaries.
20. Laurens County; location and boundaries.
21. Lexington County; location and boundaries.
22. Marion County; location and boundaries.
23. Marlborough County; location and boundaries.
24. Newberry County: location and boundaries.
25. Oconee County; location and boundaries.
26. Orangeburg County; location and boundaries.
27. Pickens County; location and boundaries.
28. Richland County; location and boundaries.
29. Spartanburg County; location and boundaries.
30. Sumter County; location and boundaries.
31. Union County; location and boundaries.
32. Williamsburg County; location and boundaries.
33. York County; location and boundaries.

Counties Incorporated Public Property.

34. Each County a body politic.
35. Property of County.
36. Public officers having care of public buildings may insure the same.

Division of the State into Counties.

SECTION 1. The State of South Carolina is divided into thirty-three Judicial Districts, called Counties.

Abbeville County. IV, 661, 2 1; VII, 199, 2, 252, 284.

SEC. 2. The COUNTY OF ABBEVILLE is bounded as follows: On the South-west by the Savannah River, by which it is separated from Georgia; on the North-west by Anderson County, from which it is separated by a line (the old Indian boundary) drawn from a marked black-gum, on the East bank of the Savannah River, at the foot of Grape Shoals, (North 50° East,) to a willow-oak, marked "A. & P.," on the South side of Saluda River; on the North-east by the Saluda River, which separates it from Laurens County; and on the South-east by Edgefield County, from which it is divided by a line drawn from a point on Saluda River, one-fourth of a mile above Island Ford, and running (South 40° West) nineteen miles and thirty-eight chains, to a point, and thence (South 34° West) fourteen miles and sixty chains, or until it intersects the Savannah River, at the mouth of Little River.

Aiken County. IV, 661, 664; V, 478, 506; VI, 463; VII, 199, 248, 261, 284; XIV, 695.

SEC. 3. AIKEN COUNTY is bounded as follows: On the North-west by Edgefield County, from which it is divided by a straight line commencing at the mouth of Fox's Creek, where it empties into Savannah River, and running thence to where the South branch of Chinquepin Falls Creek, (a tributary of the North Edisto River,) intersects the Edgefield and Lexington line; on the North-east by Lexington County, from which it is divided by said creek to where it empties into the North Fork of the Edisto River, and by the said North Fork to where the dividing line between Lexington and Orangeburg Counties (running from Big Beaver Creek to the North Fork of the Edisto) touches said river; on the South-east by Orangeburg and Barnwell Counties, from which it is divided by a straight line from the last named point to the head of Tinker's Creek, in Barnwell County, then by said creek to where it empties into the Upper Three Runs, and by said Runs Creek to where it empties into the Savannah River; on the South-west by Georgia, from which it is separated by the Savannah River.

Anderson County. I, 196; VI, 39, 289, 3.1; VII, 261.

SEC. 4. ANDERSON COUNTY is bounded as follows: On the North-west and North by Oconee and Pickens Counties, from which it is divided by a line commencing at the mouth of Cane Creek, on Tugaloo River, and running thence to the point where Eighteen Mile Creek is crossed by the road leading from Pendleton to Hagood's Store, thence to the mouth of George's Creek, on Saluda River; on the North-east and East by Greenville County, from which it is separated by the Saluda River; on the South-east by Abbeville County, from which it is divided by a line drawn from a marked black-gum on the East bank of the Savannah River, at the foot of Grape Shoals, to a willow oak, marked "A. & P.," on the South side of Saluda River; on the South-west by the State of Georgia, from which it is separated by the Savannah River.

Barnwell County. IV, 664; VII, 199, 284; XIV, 695.

SEC. 5. BARNWELL COUNTY is bounded as follows: On the North-west by Aiken County, from which it is divided by a line, beginning at the mouth of Upper Three Runs Creek, where it empties into the Savannah River, and running up said creek to the mouth of Tinker's Creek,

thence up said Tinker's Creek to its head, thence to South Edisto River, in the direction of the point on the North Edisto River (mouth of Cedar Branch) where the line between Orangeburg and Lexington Counties, drawn from Big Beaver Creek, touches said river; on the North-east by Orangeburg County, from which it is separated by the South Edisto River as far down as Tyler's Ferry; on the South-east by Colleton and Beaufort Counties, from which it is divided by the old District line, stretching from Nelson's Ferry, on the Santee River, to Matthew's Bluff, on Savannah River; and on the South-west by the State of Georgia, from which it is separated by the Savannah River.

Beaufort County. VII, 199, § 2, 261, 284.

SEC. 6. BEAUFORT COUNTY is bounded as follows: On the North-east by Colleton County, from which it is separated by St. Helena Sound and the Combahee and Saltkehatchie Rivers; on the North-west by Barnwell County, from which it is divided by the old line stretching from Nelson's Ferry, on the Santee, to Matthew's Bluff, on the Savannah River; on the West and South-west by the State of Georgia, from which it is separated by the Savannah River; on the South and South-east by the Atlantic Ocean, including all the islands along the coast from the mouth of the Savannah River to St. Helena Sound.

Charleston County. IV, 663; VII, 199, § 2, 261, 284.

SEC. 7. CHARLESTON COUNTY is bounded as follows: On the North-east and North by the Counties of Georgetown, Williamsburg and Clarendon, from which it is separated by the South Santee River, as high up as Nelson's Ferry; on the North-west by Orangeburg County, from which it is divided by a line drawn from Nelson's Ferry, on the Santee River, to Matthew's Bluff, on Savannah River, until it strikes the Four Hole Swamp; on the West and South-west by Colleton County, from which it is divided as follows: a line running from Four Hole Swamp to the Four Holes, at Harley's Bridge, thence by a line drawn (South 64° East,) to Windsor Hill, thence South-west over to the head of Sampit Creek, down this creek to Ashley River, thence up Ashley River to Ashley Hill, thence Westerly to Stono Swamp, and then down this swamp to Stono River, up this river and across through New Cut to Wadmalaw River, and down this river to Dawho River, up this river and across into Pon Pon or South Edisto, and down this river to the ocean; on the East and South-east by the Atlantic Ocean, including all the islands along the coast, from the mouth of South Edisto River to the mouth of the South Santee River.

Chester County. IV, 662; V, 317; VII, 284.

SEC. 8. CHESTER COUNTY is bounded as follows: On the North by a line beginning at a hickory tree, on the South-west side of the Catawba River, about ten chains above the mouth of Ferrall's Creek, and running (nearly South 80° West,) by an old line, called and known by the name of the Line of the New Acquisition, to an ash and black-gum, on the bank of Broad River, on Robert Elliott's lands, thence down Broad River to the mouth of Sandy River, thence in a direct line to the mouth of Rocky Creek, on the Catawba River, thence up to the Catawba River, to the place of beginning.

Chesterfield County. IV, 662; VII, 199, 261, 284; XII, 785.

SEC. 9. CHESTERFIELD COUNTY is bounded as follows: On the North by the North Carolina line; on the East by Marlborough County, from which it is separated by Great Peedee River; on the South by Darlington County, from which it is divided by Cedar Creek, commencing at its mouth, where it enters into the Great Peedee, and up said creek to the head of the Southernmost branch, and thence by a direct line (South 51° 45′ West) to the fork of Lynch's Creek; on the South-west by Kershaw and Lancaster Counties, from which it is separated by Big Lynch's Creek.

Clarendon County. IV, 662; VII, 199, 261; XII, 416, 611, § 1.

SEC. 10. CLARENDON COUNTY is bounded as follows: On the North and North-west by Sumter County, from which it is divided by the following lines: Beginning at a corner on the East side of Santee River, and running thence (North 76° East) six hundred and fifty-four chains, to a forked pine corner, thence (South 82° East) one hundred and four chains to a pine corner, thence (North 76° East) five hundred and twenty chains, to a post on the Vance's Ferry Road, thence (North 77° East) three hundred and sixty-eight chains and fifty links, to a corner in Pocotaligo River, thence (North 34° East) one hundred and thirty-four chains and fifty links, to a corner, thence (North 55° East) six hundred and fifty chains and fifty links, to a corner in Black River, thence (North 86½° East) sixty-three chains, to a post on the Salem Road, thence (North 52° East) two hundred chains, to a black-gum corner, thence (North 55° East) four hundred and one chains, to a pine corner, thence (North 58½° East) one hundred and thirty-five chains, to the Eastern side of Dyall's Bay, thence (North 55° East) fifteen chains, to Mill Bay, thence (North 57½° East) ninety-four chains, to two sweet-gums, thence (North 55° East) four hundred and sixty-six chains and eighty links, to a corner on the Western bank of Lynch's Creek, the said line being forty-seven and one-half miles and one hundred and sixty yards in length; on the North-east by Darlington County, from which it is separated by Lynch's Creek; on the South-east by Williamsburg County, from which it is divided by a line (originally straight, but now a little bending where it intersects Black River) beginning at a point on Lynch's Creek, nearly a mile and a half below the old Saw Mill Ferry, and running (South 22½° West) about forty-three miles, or until it intersects the Santee River, three-quarters of a mile below Gaillaird's Island; on the South and South-west by the Santee River, which divides it from Charleston and Orangeburg Counties.

Colleton County. VII, 199, 284.

SEC. 11. COLLETON COUNTY is bounded as follows: On the East and North by Charleston County, from which it is divided as follows: By a line beginning at the mouth of South Edisto River, where it empties into the Atlantic Ocean, and following up said river to the Dawho River, then by this river to its intersection with the North Edisto (here called Wadmalaw), up this river into New Cut, thence through said cut into the West branch of Stono River, and thence following the course of said branch to its junction with the Stono River, then up the East branch of the Stono River, about five miles in a straight line above Rantowle's

Bridge, (near where the line of St. Paul's Parish intersects,) thence by a waving line stretching up Stono Swamp, and over to Ashley Hill, on Ashley River, then down this river, to Sampit Creek, and then up this creek to its head, then across the country North-east to Windsor Hill, the extreme South-east corner of the County, then by a straight line drawn from Windsor Hill, (North 49° West,) to Four Hole Swamp, three-quarters of a mile above Four Hole Bridge, near Harley's, then up the Four Hole Swamp, about fifteen miles, to the intersection of the line drawn from Nelson's Ferry, on Santee River, to Matthew's Bluff, on Savannah River; on the North-west by Orangeburg and Barnwell Counties, from which it is divided by the old line running (South 53° West,) from Nelson's Ferry to Matthew's Bluff, to where it intersects the Big Saltkehatchie River, about two miles and a half above Broxham's Ford; on the South-west by Beaufort County, from which it is separated by the Saltkehatchie and Combahee Rivers and St. Helena Sound.

Darlington County. IV, 662; VII, 199, 261, 284; XII, 789.

SEC. 12. DARLINGTON COUNTY is bounded as follows: On the North-east by a line beginning at the mouth of Cedar Creek, thence down the Great Peedee to the old District line, thence along said line to Lynch's Creek, thence up the said creek to the fork, (mouth of Little Lynch's Creek,) thence by direct line (North 51° 45′ East) to the head of the southernmost branch of Cedar Creek, thence down said creek to its mouth, the place of beginning.

Edgefield County IV, 661; VI, 463; VII, 199, 284; XIV, 695.

SEC. 13. EDGEFIELD COUNTY is bounded as follows: On the South-west by the Savannah River, by which it is separated from Georgia; on the North-west by a line drawn from the mouth of Little River (North 34° East) fourteen miles and sixty chains, to a point, and thence (North 40° East) nineteen miles and thirty-eight chains, or until it intersects Saluda River at a point one-fourth of a mile above Island Ford; on the North-east by Newberry County, from which it is separated by the Saluda River; on the South-east by Lexington and Aiken Counties, from which it is divided by a line drawn from Rocky Creek, on Saluda River, in the direction of Silver Bluff, on Savannah River, to where such line intersects the South branch of Chinquepin Falls Creek, (a tributary of the North Edisto River,) and thence to the mouth of Fox's Creek, where it intersects the Savannah River.

Fairfield County. IV, 662; V, 317; VII, 199, 284.

SEC. 14. FAIRFIELD COUNTY is bounded as follows: On the North by Chester County, from which it is divided by a line running from the mouth of Rocky Creek, on the Catawba River, to the mouth of Sandy River on Broad River; on the West and South-west by Broad River, by which it is separated from the Counties of Union, Newberry and Lexington; on the South by Richland County, from which it is divided by Little River, from its mouth up to a point about a half mile above the plantation of Mr. Shaffer, (one mile above the mouth of Shaffer's Creek,) and a line running from thence in a direct course to the Round Top, near Dohertie's Mill; on the East by the Counties of Kershaw and Lancaster, from which it is divided by a line drawn from the last men-

tioned point, Round Top, (North 18° 15′ East,) fourteen miles and twenty-three chains, to the intersection of Wateree River, where Cornel's Creek enters it, thence up the Wateree and Catawba Rivers as high as the mouth of Rocky Creek.

Georgetown County. IV, 662; V, 407, 478; VII, 199, § 2.

SEC. 15. GEORGETOWN COUNTY is bounded as follows: On the North and North-east by Marion and Horry Counties, from which it is separated as follows: From Marion County by the Great Peedee River from Britton's Ford to its junction with the Little Peedee River; from Horry County by the Great Peedee River, from its junction with the Little Peedee to its junction with Bull Creek, and thence by said Creek to Waccamaw River, and thence by said river down to a point about half a mile below Prince's Creek, and thence, by a line running (North 86½° East) five miles and sixty-seven chains, or to a cedar post on the sea shore, planted at low water mark; on the South-east by the Atlantic Ocean, including all the islands between the last mentioned cedar post and the mouth of South Santee River; on the South and South-west by the County of Charleston, from which it is separated by the South Santee and Santee Rivers as far up as Leneud's Ferry; on the West and North-west by Williamsburg County, from which it is divided by the main road leading from Leneud's Ferry, on the Santee River, across Potato Ferry, (on Black River,) to Britton's Ferry, on the Great Peedee.

Greenville County. VII, 245, 284.

SEC. 16. GREENVILLE COUNTY is bounded as follows: On the North by the North Carolina line; on the East and South-east by Spartanburg and Laurens Counties, from which it is divided as follows: From Spartanburg County, by a line commencing on the North Carolina line, at a stone marked "S. C.," on the East side of Blackstock road, near the Tryon Mountain, and running (South 2° East,) twenty-two miles and sixty-four chains, or until it intersects the Enoree River, at Abner's Mill, thence down the Enoree River, to a point about one mile and three-quarters below Anderson's Bridge, (the corner of Greenville and Laurens Counties); from Laurens County, by a line commencing at said point, (opposite Zadock's Ford,) and running (South 17° West,) eleven miles and sixty chains, to a point, thence (South 4° East) three miles and forty-five chains, to a water oak, marked "L. G.," on Reedy River, thence running to the mouth of Line Creek, where it enters the Saluda River; on the West by Anderson and Pickens Counties, from which it is separated by the Saluda River.

Horry County. IV, 663; V, 407, 544.

SEC. 17. HORRY COUNTY is bounded as follows: On the South-east by the Atlantic Ocean, a line of thirty-one miles; on the North-east by the North Carolina line, beginning at a cedar stake (marked with nine notches) on the sea shore of Goat Island, about one and a quarter miles East of the mouth of Little River, and running from thence until it intersects Lumber River, (about five and a fourth miles to the East of Newson's Ferry); on the West and South-west by Marion and Georgetown Counties, from which it is separated as follows: By Lumber River to Little Peedee River, thence by Little Peedee River to its junction

with Great Peedee River, thence by Great Peedee River to its junction with Bull Creek, thence by said creek to the Waccamaw River, and down this river to a point about half a mile below Prince's Creek; and thence by a line running over to a cedar post on the sea shore, (North 86½° East,) five miles and sixty-seven chains.

Kershaw County.
V, 218; VI, 69; VII, 270, 284; IX, 386.

SEC. 18. KERSHAW COUNTY is bounded on the South-east by Sumter County, from which it is divided by a line beginning at Spivey's Ferry, on Lynch's Creek, and extending (South 45° West,) about twenty-four miles, or until it intersects the Salisbury Road, in Col. D. Stark's plantation; from thence, (South 84° West,) about one mile, to Big Swift Creek, opposite to Raglin's Gut; and thence by this gut to Wateree River; on the South-west by Richland County, from which it is divided by a line beginning at the Wateree River, opposite to the last mentioned point, and running (South 66° West,) or by Raglin's Creek, to Spears's Creek; thence up Raglin's Creek to its head; thence by a straight line (North 40¾° West) ten miles seventeen chains; thence (North 56½° West) one mile fourteen chains, to a point over Rice Creek, on Peay's plantation, nearly half a mile above the fork of Twenty-five Mile Creek; on the West by Fairfield County, from which it is separated by a line drawn from the last mentioned point, (North 18¼° East) twenty-three miles fourteen chains, or until it intersects the Wateree River, and up the said river half a mile above Peay's Ferry; on the North-west and North by Lancaster County, from which it is divided by the following lines: Beginning at the Wateree River, half a mile above Peay's Ferry, and running (North 47° East) nine miles thirty-seven and a half chains; thence (North 47° East) forty-seven chains, to the Beaver Creek Road; thence (North 72½° East) seventy and a half chains; thence (North 48° East) two miles sixty-three chains, or until it intersects Big Lynch's Creek, about ten chains above Harrison's Ford; on the North-east by Chesterfield and Darlington Counties, from which it is separated by Big Lynch's Creek down to the place of beginning.

Lancaster County.
IV, 662; V, 218, 697; VI, 69; VII, 284.

SEC. 19. LANCASTER COUNTY is bounded as follows: On the North by the North Carolina line; on the West by the Catawba River, to the intersection of the North Carolina line, which separates it from the Counties of York, Chester and Fairfield; on the South by Kershaw County, from which it is divided by a line beginning at a point on the Wateree River, half a mile above Peay's Ferry, and running (North 47° East) six miles and thirty-seven and a half chains; thence (North 74° East) forty-seven chains, thence (North 72½° East) twenty chains and thirty links, thence (North 48° East) sixty-three chains, to where the Rocky River crosses the Hanging Rock Creek, thence South, following the Road to Camden, down to a point opposite to Miller's House, or at the head of a branch of Hanging Rock Creek, thence (North 62½° East) fourteen and a half miles, or until it intersects Big Lynch's Creek, at Hamson's Ford; on the East by Chesterfield County, from which it is separated by Big Lynch's Creek.

Laurens County. IV, 661; V, 220, 545; VII, 284.

SEC. 20. LAURENS COUNTY is bounded as follows: On the South-west by the Saluda River, by which it is separated from Abbeville County; on the North-west by Greenville County, from which it is divided by a line commencing at the mouth of Line Creek, where it enters the Saluda River, and running five miles and forty-five chains to a water-oak, marked "L. G.," on Reedy River, thence (North 4° West) three miles and forty-five chains, to a point, thence (North 17° East) eleven miles and sixty chains, to the ford on Enoree River, opposite Zadock's Ford; on the North-east by the Enoree River, which separates it from Spartanburg and Union Counties; on the South-east by Newberry County, from which it is divided by the old road leading from Odel's Ford, on the Enoree River, to Island Ford, on the Saluda River.

Lexington County. IV, 664; V, 478, 506; VI, 463; VII, 248, § 6; XIV, 695.

SEC. 21. LEXINGTON COUNTY is bounded as follows: On the North and North-east by Fairfield and Richland Counties, from which it is separated by the Broad and Congaree Rivers; on the South-east by Orangeburg County, from which it is divided by Beaver Creek, from its mouth to the head of its main branch, and then by a direct line to the mouth of the Cedar Pond Branch, on the North Fork of Edisto River; on the South-west by Aiken County, from which it is separated by the North Fork of Edisto River, to the mouth of the South Branch of Chinquepin Falls Creek, and then by said creek to a point where it intersects the line drawn from Silver Bluff, on the Savannah River, to the mouth of Rocky Creek, at Saluda River; on the North-west by Edgefield and Newberry Counties, from which it is divided by a line drawn from Silver Bluff, on Savannah River, to the mouth of Rocky Creek, on Saluda River, and thence, on the same course, to Broad River.

Marion County. IV, 663; VII, 199, 284, 261; XII, 785, 835.

SEC. 22. MARION COUNTY is bounded as follows: On the North-east by North Carolina, beginning at Lumber River, at the North-west corner of Horry County, and running (North 47½° West) thirty-one miles and thirty chains, to a point designated by a dead pine tree, near McJensie's house, half a mile South and South-east from the road leading from the Red Bluff, (on Green Swamp,) in Marlborough County; on the North-west by Marlborough and Darlington Counties, from which it is separated by a line beginning at the said pine tree on the North Carolina line, and running (South 22½° West) to Lynch's Creek, opposite to the same line continued, dividing Williamsburg County from Clarendon County; on the South-west and South by Williamsburg and Georgetown Counties, from which it is divided by Lynch's Creek and Great Peedee River; on the East by Horry County, from which it is separated by Little Peedee and Lumber Rivers.

Marlboro County. IV, 662; VII, 199, 284.

SEC. 23. MARLBOROUGH COUNTY is bounded as follows: On the North-east and North by the North Carolina line; on the South-west by the Great Peedee River, which separates it from the Counties of Chesterfield and Darlington; and on the South-east by Marion County, from which it is divided by a line drawn from a dead pine, on the North Carolina line, (South 22½° West,) twenty-four and three-fourths miles, until it intersects the Great Peedee River.

Newberry County.
IV, 661; VII, 199, 248, 262, 284.

SEC. 24. NEWBERRY COUNTY is bounded as follows: On the North-west by Laurens County, from which it is divided by a line, beginning at the Island Ford, on Saluda River, and running thence along the old road to Odel's Ford, on Enoree River; and on the North by a line commencing at Odel's Ford, on Enoree River, and running thence down Enoree to Anderson's Ford, thence along the road to Hill's Ford, on Tyger River, thence down the same to the mouth, thence down Broad River to Hughey's Ferry, by which it is separated from Fairfield County; and on the South-east by a straight line drawn from Hughey's Ferry, formerly Ruff's, (South 17¾° West,) sixteen miles and twenty-three chains, or until it intersects the Saluda River, opposite Rocky Creek, and thence up the Saluda River to the place of beginning.

Oconee County.
I, 196; VI, 39, 289, 341; Con., Art. 2, § 3.

SEC. 25. OCONEE COUNTY is bounded as follows: On the North by the North Carolina line; on the East by Pickens County, from which it is divided by a line, covering the Southern boundary of the State of North Carolina, where the White Water River enters this State, and thence down the centre of said river, by whatever names known, to Ravenel's Bridge, on Seneca River, and thence along the centre of the road leading to Pendleton village, until it intersects the line of the County of Anderson; on the South by Anderson County, from which it is divided by a line commencing at the mouth of Cane Creek, on Tugaloo River, and running thence to the point where Eighteen Mile Creek is crossed by the road leading from Pendleton to Hagood's Store, and thence to the mouth of George's Creek, on the Saluda River; on the West and North-west by the State of Georgia, from which it is separated by the Tugaloo and Chatooga Rivers.

Orangeburg County.
V, 107; VII, 199, 261, 284; XIV, 695.

SEC. 26. ORANGEBURG COUNTY is bounded as follows: On the North and North-east by Richland and Clarendon Counties, from which it is separated by the Congaree and Santee Rivers; on the South-east by Charleston and Colleton Counties, from which it is divided by a line drawn (South 52° West) from Nelson's Ferry, on the Santee River, to Matthew's Bluff, on the Savannah River; on the South-west by Barnwell County, from which it is separated by the South Edisto River; on the North-west by Aiken and Lexington Counties, from which it is divided by a direct line drawn from the head of Tinker's Creek, in Barnwell County, to the point where the Cedar Pond Branch empties into the North Fork of the Edisto, and by another direct line, drawn from said point where the Cedar Pond Branch empties into the North Fork of the Edisto, to the head waters of the main branch of Beaver Creek, thence down said creek to its junction with the Congaree River.

Pickens County.
I, 196; VI, 39, 289, 341; VII, 252, 284.

SEC. 27. PICKENS COUNTY is bounded as follows: On the North by the North Carolina line; on the East by Greenville County, from which it is separated by the Saluda River; on the South by Anderson County, from which it is divided by a line beginning at the mouth of Cane Creek, on the Tugaloo River, and thence running to the point where Eighteen Mile Creek is crossed by the road leading from Pendleton to Hagood's

Store, and thence to the mouth of George's Creek, on the Saluda River; on the West by Oconee County, from which it is divided by a line leaving the Southern boundary of the State of North Carolina, where the White Water River enters this State, and thence down the centre of said river, by whatever names known, to Ravenel's Bridge, on Seneca River, and thence along the centre of the road leading to Pendleton village until it intersects the line of the County of Anderson.

Richland County. IV, 352; VII, 279, § 2; V, 219, 317

SEC. 28. RICHLAND COUNTY is bounded as follows: On the East by Sumter County, from which it is separated by the Wateree River; on the North by Kershaw and Fairfield Counties, from which it is divided by a line beginning at the mouth of Raglin's Creek, where it empties into the Wateree River, and thence up Raglin's Gut and Creek to its source, thence by a straight line, (North 50° West,) twelve miles and sixteen chains, to a point designating the corner of Kershaw and Fairfield Counties, (which lines form the boundary of Kershaw County,) thence by a straight line drawn (North 88° West,) seventeen miles and forty chains, to the intersection of Little River, about one mile above the mouth of Shaver's Creek, and down said river to its junction with Broad River, (which separates it from Fairfield); on the West and South by the Counties of Lexington and Orangeburg, from which it is separated by the Broad and Congaree Rivers.

Spartanburg County IV, 361; VII, 284.

SEC. 29. SPARTANBURG COUNTY is bounded as follows: On the North by the North Carolina line; on the West by Greenville County, from which it is divided by a line commencing on the North Carolina line, at a stone marked "S. C.," on the East side of Blackstock's Road, near the Tryon Mountain, and running (South 2° East,) twenty two miles and sixty-four chains, or until it intersects the Enoree River, at Abner's Mill, on said river, thence down the Enoree River, to a point about one mile and three quarters below Anderson's Bridge, (the corner of Greenville and Laurens Counties); on the South-west by the Enoree River, down to a dead Spanish oak, (below Head's Ford, and a little above the mouth of a small creek,) which divides it from Laurens County; on the South-east by Union County, from which it is divided by the following lines: Beginning at the dead Spanish oak, on the North side of Enoree River, and running (North 12° East,) three miles and twenty-six chains, thence (North 17° East,) two miles and twenty-eight chains; thence (North 6½° East,) eleven miles and fifteen chains, crossing Tyger River, to Fair Forest Creek, thence (North 33° 45′ East,) six miles and thirty-seven chains, to Pacolet River, a little below Gist's Mill, thence (North 29° East,) fourteen miles and four chains, to a point on the West bank of Broad River, a little above the mouth of Cherokee Creek; and on the North-east by Broad River, up to the North Carolina line, the point of beginning, which divides it from York County.

Sumter County. XII, 416, § 1; VII, 284.

SEC. 30. SUMTER COUNTY is bounded as follows: On the North-east by Darlington County, from which it is separated by Lynch's Creek; on the South-east by Clarendon County, from which it is divided by the following lines: (See North-west line of Clarendon County;) on the

West by the Santee and Wateree Rivers, which separate it from Orangeburg and Richland Counties; on the North-west by Kershaw County, from which it is divided by a line running up Raglin's Gut to Big Swift Creek; thence (North 84° East,) over the road leading to Statesburg, and thence (North 84° East,) twenty-four miles, or until it intersects Lynch's Creek, at Spivey's Ferry.

Union County. IV, 662; VII, 284.

SEC. 31. UNION COUNTY is bounded as follows: On the North-east, by Broad River, which separates it from York, Chester and Fairfield Counties; on the North-west by Spartanburg, from which it is divided by the following lines: Beginning at a point on Broad River, one-half mile above the mouth of Cherokee Creek, and running thence (South 29° West,) to Pacolet River; thence (South 33¾° West,) to the intersection of Fair Forest Creek; thence (South 6½° West) across the Tyger River to Hackett's Creek; thence (South 17° West,) two miles twenty-eight chains, to the Cross Keys Road; thence (South 12° West.) to a dead Spanish oak, on the North bank of the Enoree River, a little above Musgrove's Ford, opposite Gordon's Mills; on the South-west by Laurens and Newberry Counties, from which it is divided by the Enoree River, down to Avery's Ford; thence by the road to Crenshaw's Ford, on the Tyger River, and thence down said river to its junction with the Broad River, which forms its South-east boundary.

Williamsburg County. IV, 663; V, 407; VII, 199, 261.

SEC. 32. WILLIAMSBURG COUNTY is bounded as follows: On the South-west by Charleston County, from which it is separated by the Santee River; on the North-west by Clarendon and Darlington Counties, from which it is divided by a line commencing at a point on the Santee River, extended across into Charleston County, (South 22½° West,) until it intersects the line dividing St. Stephen's and St. John's Berkley at the Santee River, thence (North 22½° East,)—with very little variation at Black River—to Big Lynch's Creek, at a point one mile and a quarter below the old Saw Mill Ferry, and opposite to the same line continued to the North-east boundary of the State; on the North-east by Lynch's Creek and Great Peedee River, which separates it from Marion County; on the South-east by Georgetown County, from which it is divided by the road leading from Britton's and Bradley's Ferry, on the Great Peedee River, to Leneud's Ferry, on the Santee River.

York County. I, 132; IV, 662; V, 318; VII, 284.

SEC. 33. YORK COUNTY is bounded as follows: On the North by the North Carolina line; on the West by the Counties of Spartanburg and Union, from which it is separated by Broad River; on the South by Chester County, from which it is divided by a line beginning at a hickory tree, on the South-west side of the Catawba River, about ten chains above the mouth of Ferrill's Creek, and running (nearly South 88° West,) by an old line called and known by the name of the Line of the New Acquisition, to an ash and black-gum on the bank of Broad River, on Robert Elliott's land; on the East by the County of Lancaster and the North Carolina line, from which it is separated by the Catawba River.

SEC. 34. Each County shall be a body politic and corporate for the following purposes: To sue and be sued; purchase and hold, for the use of the County, personal estate and land lying within its own limits; and to make necessary contracts and do necessary acts in relation to the property and concerns of the County.

Each County a body politic. Ibs, XIV, 134, § 35.

SEC. 35. Real and personal estate heretofore conveyed by any form of conveyance to the inhabitants of a County or district, to a Committee or Commissioners or other persons, or existing in a County or district for the use and benefit of a County or district, shall be deemed to be the property of such County; and such conveyance shall have the same force and effect as if made to such County by its corporate name.

Property of the County. Ib., § 36.

SEC. 36. The public officers having by law the care and custody of town, village, city or County buildings, are authorized to insure the same at the expense and for the benefit of the town, village, city or County owning the same.

Public officers may insure. Ib., § 32.

CHAPTER XIX.

OF COUNTY COMMISSIONERS; THEIR POWERS AND DUTIES.

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3. To be sworn, and choose a Chairman.
4. Whole Board to meet; Clerk to countersign checks.
5. Powers of Chairman.
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8. Officers to serve processes.
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33 Penalty for refusal to perform duty.
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39 To provide rooms for Courts and officers, when.
40. To report to General Assembly annually; penalty.

Jurisdiction of County Commissioners.
1868, XIV, 128, § 1.
12 Rich., 300.

SECTION 1. That County Commissioners, elected in pursuance of Section 19 of Article IV of the Constitution, shall have jurisdiction over roads, highways, ferries, bridges, and in all matters relating to taxes and disbursements of money for County purposes, and in every other case that may be necessary to the internal improvement and local concerns in their respective Counties.

County Commissioners to be chosen—when.
1870, XIV, 338.

SEC. 2. There shall be an election held on the third Wednesday of October, Anno Domini one thousand eight hundred and seventy-two, and on the same day every second year thereafter, for the election of three County Commissioners in each County.

To be sworn and to choose a chairman.
1868, XIV, 128, § 2.

SEC. 3. County Commissioners, before entering upon their duties, shall be sworn, and, at their first meeting after their election, shall choose a Chairman of their Board.

Whole Board to meet. Clerk to countersign checks.
1871, XIV, 662, § 3.

SEC. 4. That all the Board of County Commissioners shall be present for the transaction of business, and shall audit and sign all bills and checks. The checks shall, in all cases, be countersigned by the Clerk of the Board.

Powers of chairman.
1868, XIV, 129, § 4.

SEC. 5. Every Chairman shall have power to administer an oath to any person, concerning any matter submitted to the Board, or connected with their powers or duties.

Commissioners shall hold annual and special meetings.
Ib., § 5.

SEC. 6. The County Commissioners of the several Counties of this State shall meet, annually, in their respective Counties, for the dispatch of business; they may also hold special meetings at such times and places as they may find convenient, and shall have power to adjourn from time to time, as they may deem necessary.

Punish contempts.
Ib. § 7.

SEC. 7. County Commissioners, when assembled for the performance of their duties, may punish disorderly conduct causing interruption to the business of their meetings or amounting to an open and direct contempt of their authority or persons, by fine not exceeding ten dollars, or by confinement, in the custody of the Sheriff or a Deputy Sheriff, Coroner or a Constable, for a time not exceeding twelve hours.

Officers to serve processes.
Ib., § 8.

SEC. 8. Sheriffs, Deputy Sheriffs, Coroners and Constables shall serve and execute all legal orders, warrants or processes to them directed by the County Commissioners.

SEC. 9. The Board of County Commissioners of each County in the State shall have power, at their annual meeting:

Powers of the Board

1. To examine, settle, and allow all accounts chargeable against such County, and draw orders on the County Treasurer for the same; but the County Commissioners shall not draw any order upon the County Treasurer until after the monthly return of the Treasurer shall have been made to the County Commissioners of the amount of funds collected, nor unless he has the funds in the Treasury to pay the same. And the County Commissioners shall inform the County Treasurer of the orders drawn, in whose favor, the amount, and the order in which they are drawn. And should the County Commissioners, or any one of them, purchase, directly or indirectly, any order drawn upon the County Treasurer, for less than its face value, they shall be deemed guilty of a misdemeanor in office, and, upon conviction thereof, shall be punished by fine or imprisonment in the discretion of the Court by any Court of competent jurisdiction.

To settle accounts.

Not to draw orders until monthly return of Treasurer, nor to purchase orders on Treasurers

Ib., § 10; 1871, XIV, 662, § 1,2.

2. To cause to be levied, collected, and paid to the Treasurer of the County such sum of money as may be necessary to construct bridges therein, and to prescribe upon what plan, and in what manner, the moneys so to be raised shall be expended.

To raise money for building bridges.

3. To apportion the tax so to be raised among the several towns and wards of their County, as shall seem to them to be equitable and just.

To apportion taxes

4. To cause to be levied, collected, and paid, all such sums of money as they shall deem necessary for rebuilding or repairing the court house or jail of their County, or for building, rebuilding, or repairing the Clerk's office for the County, and to prescribe upon what plan, and in what manner, money so raised shall be expended; and all work given out by the County Commissioners, when the amount shall exceed the sum of one hundred dollars, shall be done by contract; and the Commissioners are hereby required to advertise the same, at least in one of the papers of the County, and also post the same in three conspicuous places in the County, for thirty days, inviting proposals; said proposals shall, in all cases, be accompanied by two or more sufficient sureties; and the County Commissioners shall have the right to reject any or all bids, if, in their judgment, the interests of the County so require.

To raise money for public buildings.

See 1827, VI, 321; 1841, XI, 156.

To have work done by contract, and advertise for proposals

1871, XIV, 662, § 2.

5. To cause to be raised by tax upon such County, any sum of money, not to exceed the sum of five thousand dollars in any one year, for the purpose mentioned in the first and second sub-divisions of Section 11 of this Chapter.

To raise money by tax, &c.

SEC. 10. The County Commissioners shall assess all taxes for County purposes upon the then last State valuation; and for this purpose shall, on or before the first day of January in each year, obtain from the Auditor of the County (who is authorized and required to furnish the same) a certified copy of the County duplicate, and shall, on or before the fifteenth day of January thereafter, pursuant to authority given by the General Assembly, make out and deliver to the County Treasurer, with

Taxes to be assessed upon the last State valuation.

1899, XIV, 274, § 3.

Tax Bill Collections.

their warrant to collect, a tax bill for County purposes. Said tax bill and warrant shall be signed by the County Commissioners, or a majority of them, sealed with their seal, and certified to by their clerk. Said tax bill and warrant shall be the Treasurer's sufficient authority, and he shall proceed thereon to collect the taxes therein laid in the same manner as provided by law for the collection of State taxes.

Commissioners have power—

1868, 130, § 14.

SEC. 11. The Boards of County Commissioners shall have power, and they are authorized, at any meeting thereof lawfully assembled:

To purchase real estate.

1. To purchase for the use of their respective Counties any real estate necessary for the erection of buildings and for the support of the poor of such County.

To fix sites of buildings.

2. To fix upon and determine the site of any such buildings, and cause to be erected necessary buildings for poor houses, and prescribe the manner of erecting the same.

To borrow money

3. To borrow money for the use of such County, to be expended for the purchase of any real estate, or for the erection of any such buildings, and to provide for the payment thereof, with interest, by tax upon such County, within ten years from the date of such loan, in yearly installments or otherwise: *Provided,* That no such loan shall be created by the County Commissioners until they notify the General Assembly of the necessity thereof, and authority be granted to them to create said loan.

Proviso.

To sell or lease.

4. To authorize the sale or leasing of any real estate belonging to such County, and to prescribe the mode in which any conveyance shall be made.

To make orders concerning property, &c.

5. To make such orders concerning the corporate property of the County as they may deem expedient.

To approve bonds.

6. To examine, approve or disapprove the official bonds of all County officers.

County officers to make reports to—when.

7. To require any County officer whose salary is paid by the County to make report, under oath, to them, on any subject or matter connected with the duties of their offices; and the said officers are required to make such report whenever called upon by resolution of such Board; and if any officer shall neglect or refuse to make such report, he shall be deemed guilty of a misdemeanor, and punishable by fine or imprisonment, within the discretion of the Circuit Court.

Punishable for refusal to make reports.

To appoint Special Commissioners.

8. To appoint Special Commissioners to lay out public highways in those cases where they shall be satisfied that the road applied for is important.

To divide Counties into highway districts.

1871, XIV, 666, § 1.

9. To divide their Counties into highway districts, each district to contain not less than ten miles of public highways, nor more than forty miles, to be convenient for repairing highways, and may, from time to time, alter the same.

10. To appoint for each highway district a Surveyor of Highways, to superintend the expenditure of the highway tax and money appropriated for improvement of highways in his district, and to take charge of and keep in repair, at all times, the highways in his district. Said Surveyor of Highways shall be removable at pleasure.

To appoint Surveyors of Highways, &c. Ib.

SEC. 12. That the County Commissioners of each County shall, on or previous to the first day of January, assess a tax of eighteen cents, if so much be necessary, on every hundred dollars of the lists of the County, for the purpose of keeping in repair highways and bridges, to be paid in money or labor, at the option of the tax payer, and laid out in repairing highways and bridges; and they shall, annually, on or before the said first day of January, make out a tax bill for each Surveyor of Highways, containing the amount of the tax to be laid out by him in his district, with the amount of each person's tax annexed to his name, accompanied with a warrant, signed by the Chairman of the Board, authorizing such Surveyor to collect such tax; and they shall deliver the several tax bills to the respective Surveyors, and take their receipt for the same.

To assess tax annually for repair highways and bridges, to be collected by Highway Surveyors. 1871, XIV, 667, § 2.

SEC. 13. The County Commissioners shall have power to provide for the payment of the Special Commissioners, appointed under the eighth sub-division of Section 11 of this Chapter, for their time and expenses, at a rate not exceeding three dollars per day each, and five cents for each mile of necessary travel. The decisions made by said Special Commissioners may be appealed from, and reviewed in the same manner, and with like authority, as is allowed by law from the acts of the County Commissioners. The work so to be laid out by such Special Commissioners, or the same as settled on appeal, shall be recorded, opened and worked as public highways of the towns, cities or Counties in which they are respectively situated, in the same manner as other highways of the town, city or County are required by law to be recorded, opened and worked.

Compensation of Special Commissioners. 1868, XIV, 131, § 16.

Decisions may be reviewed.

Roads may be opened and worked.

SEC. 14. Special meetings of the Board of County Commissioners of any County may be called by the Chairman of the Board on his own motion or the written request of other members of the Board.

Special meetings. Ib., § 15.

SEC. 15. Every resolution of any Board of County Commissioners, passed in pursuance of the provisions of this Chapter, shall be signed by the Chairman and Clerk of the Board, and be recorded in the book of miscellaneous records of the County.

Resolutions of Boards of County Commissioners to be recorded. Ib., § 17.

SEC. 16. Each Board of County Commissioners shall appoint some proper person to be their Clerk, whenever necessary, and may remove him at pleasure, whose general duties it shall be:

Clerk. Ib., § 18.

1. To record in a book to be provided for the purpose, all proceedings by the Board.

Duties.

2. To make regular entries of all the resolutions or decisions on all questions concerning the raising or payment of moneys.

3. To record the vote of each Commissioner on any question submitted to the Board, if required by any member present; and,

4. To preserve and file all the accounts acted upon by the Board.

Oath.

Salary.

Said Clerk shall take the oath prescribed by the Constitution. He shall receive a reasonable compensation for his services, to be fixed by the Board, not to exceed three dollars per day for the time actually and necessarily employed.

Copies of papers shall be evidence in Courts.
Ib., 132, § 20.

SEC. 17. Copies of all papers duly filed in the office of the Clerk of the Board of County Commissioners of any County, and transcripts from the books of record kept therein, certified by such Clerk, with the seal of office affixed, shall be evidence in all Courts and places in like manner as if the original were produced.

Board of County Commissioners may adopt a seal.
Ib., § 19.

SEC. 18. The Board of County Commissioners of any County may adopt a seal, and, when so adopted, the Clerk of such Board shall cause a description thereof, together with an impression therefrom, to be filed in the office of the Clerk of the Court of Common Pleas and General Sessions of said County, and in the office of the Secretary of State; and the same shall thereupon be the seal of the Board of County Commissioners for such County.

Auditing of accounts.
Ib., § 21.

SEC. 19. No account shall be audited by any Board of County Commissioners for any services or disbursements, unless such account shall be made out in items and accompanied with an affidavit attached to, and to be filed with, such account, made by the person presenting or claiming the same, that the items of such account are correct, and that the disbursements and services charged therein have been in fact made or rendered, and stating that no part thereof has been paid or satisfied: *Provided*, Nothing in this Section shall be construed to prevent any Board from disallowing any account, in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof, as such Board may think proper. No allowance or payment beyond legal claims shall ever be allowed.

Proviso.

Accounts to be numbered and entered.
Ib., 133, § 25.

SEC. 20. Accounts presented in any year to the Board of Commissioners of any County shall be numbered from number one upwards, in the order in which they are presented; and a memorandum of the time of presenting the same, of the names of the persons in whose favor they shall be made out, and by whom they shall be presented, shall be entered in the minutes of the Board to which they shall be presented; and no such accounts, after being so presented, shall be withdrawn from the custody of the Board, or its Clerk, for any purpose whatever, except to be used as evidence upon a judicial trial or proceeding, and in such case it shall, after being so used, be forthwith returned to such custody.

SEC. 21. All fees and accounts of Trial Justices, and other officers, for criminal proceedings, including cases of vagrancy, when not recovered from the defendant or party complaining, shall be paid by the County wherein the offence shall have been committed; and all accounts rendered for such proceedings shall state when such offence was committed. And the fines imposed and collected in such cases shall be credited and paid to the County Treasurer by the Trial Justice, or other officer imposing and collecting the same. And whenever any criminal warrant or process shall be issued by any Trial Justice, or other officer residing out of the County wherein the offence shall have been committed, it shall authorize the officer executing the same to carry the person charged with the offence before any Trial Justice, resident and being in the County wherein such offence shall have been committed, to be proceeded against according to law; and such officers shall not be allowed any compensation for any further proceedings in any such case beyond issuing such warrant or process.

County to pay certain fees of Trial Justices.
Ib., 132, § 22.

SEC. 22. No traveling fees shall be allowed for subpœnaing a witness beyond the limits of the County in which the subpœna was issued, or of an adjoining County, unless the Board auditing the account shall be satisfied by proof that such witness could not be subpœnaed without additional travel; nor shall any travel fees for subpœnaing witnesses be allowed, except such as the Board auditing the account shall be satisfied were indispensably necessary.

Subpœna fees.
Ib., 129, § 23.

SEC. 23. The annual meeting of the Board of County Commissioners for each County shall be on the first Tuesday of September, and the Clerk of the Board shall give notice of the time of holding said annual meeting by inserting the same, at least once in each week for four weeks previous to such meeting, in any newspaper or papers published in the County; and if there be no paper published in the County, then he shall post said notice upon or near the door of the court house of the County; said notice shall require all persons having bills against the County to deposit the same with the said Clerk, on or before the first day of September, and in default thereof that such bills will not be audited at said annual meeting.

Notice of meetings to be published.
Ib., § 6; 1871, XIV, 662, § 4.

Accounts to be presented.

SEC. 24. The books, records and accounts of the Boards of County Commissioners shall be deposited with their Clerk, and shall be open, without reward, to the examination of all persons.

Books and records open.
1868, XIV, 129, § 9.

SEC. 25. The fiscal year shall commence on the first day of September in each year; and it shall be the duty of all persons having any claim or demand against a County to have the same made out in items, with dates prefixed, and verified in the manner and form required by law, and to deposit the same in the office of the Clerk of the Board of County Commissioners for the County, on or before the first day of September in each and every year; and the Board of County Commissioners in any County may, in their discretion, refuse to audit or allow any claim or

Fiscal year.
Ib., 132, § 24; 1871, XIV, 662, § 4.

When accounts must be presented.

demand, unless made out, verified and deposited in the manner herein specified.

Clerk to designate accounts.
1868, XIV, 133, § 28.

SEC. 26. It shall be the duty of the Clerk to designate every account upon which any sum shall be audited and allowed by the Board, and the amount so audited and allowed, and the charges for which the same was allowed; and he shall also deliver to any person who may demand it a certified copy of any account on file in his office, on receiving from such person ten cents for every folio of one hundred words contained in such copy.

Copies.

Clerks to make out a statement.
Ib., § 26; 1871, XIV, 662, § 1.

SEC. 27. It shall be the duty of the Clerks of the Boards of County Commissioners, on or before the second Tuesday of September in each year, to make out a statement, showing:

1. The number of days the Board shall have been in session within such year, and the distance traveled by the members, respectively, in attending the meetings of the Board.

2. Whether any accounts were audited or allowed without being verified according to law, and, if any, how much, and for what; and such statement shall be certified by such Clerk, and be printed in a newspaper published or circulated in the County, within two weeks after said statement shall be so made out; and it shall be the special duty of such Clerk to see that the same is so published; and for every intentional neglect so to do, such Clerk shall be deemed guilty of a misdemeanor, and punishable by fine or imprisonment, within the discretion of the Court.

Statements to be published.

Publication of accounts audited.
1868, XIV, 133, § 27.

SEC. 28. It shall be the duty of the Board of County Commissioners in each County, annually, to publish in one or more newspapers printed or circulated in such County, the name of every individual who shall have had any account audited and allowed by said Board, and the amount of said claim, as allowed, together with the amount claimed.

Each County to pay—
1869, XIV, 274, § 2.

SEC. 29. Each County shall pay:

Jurors.

1. The fees of grand and petit jurors, while in attendance upon the Circuit Court.

Witnesses.

2. Witness' fees in State cases, for actual attendance on the Circuit Court, and for actual attendance on a Trial Justice's Court.

Post mortem examinations

3. Fees of physicians and surgeons testifying as experts before a Coroner's jury, or at the Circuit Court, after a *post mortem* examination, ten dollars, and five cents per mile for actual and necessary travel.

For dieting prisoners, &c.
1839, XI, 47, 39; 1861, XII, 908, § 2.

4. For dieting and keeping persons confined in the County jail.

Solicitors.

5. Fees of the Circuit Solicitors for services in the County, when not collected from the defendant, at the following rates: In a trial before a jury in civil and criminal cases, or before referees, a docket fee of ten

dollars; in cases at law, where judgment is rendered without a jury, seven dollars and fifty cents; said fees to be in lieu of all other compensation whatever.

6. Fees of the Clerks of the Circuit Courts in State cases, at the rates allowed by law. Clerks.

7. Fees of the County Coroners, at the rates allowed by law. Coroners.

Before the accounts of Sheriffs, Circuit Solicitors or Clerks shall be presented to the County Treasurer for payment, they shall be sworn to by said officers, examined and certified to by the Judge presiding in the Circuit Court in the County, approved and ordered to be paid by the County Commissioners. Accounts to be sworn to and examined, and certified to by Circuit Judge

SEC. 30. No account of the Circuit Solicitor, the Clerk of the Circuit Court of General Sessions, the County Sheriff, or Trial Justices, for fees, in any criminal cause heard or prosecuted in the Circuit Court, or before a Trial Justice, shall be paid, unless they severally shall declare, on oath, that the costs in the said cause have not been recovered of the defendant, and that he, the defendant, was unable to pay the same; and, further, that all fines and penalties heretofore collected by them have been faithfully and fully paid over to the County Treasurer of the County. Accounts not to be paid in certain cases. 1871, XIV, 156, § 2.

SEC. 31. Each member of the Board of County Commissioners shall be allowed compensation for his services in attending the meetings of the Board, and for necessary time spent in discharging other duties imposed by law, if any, at the rate of three dollars per day, and five cents per mile for necessary travel: *Provided,* That compensation shall not be allowed to any member of the Board of County Commissioners for exceeding one hundred days in any one year, except to the members of the Board of County Commissioners for the County of Charleston, who shall not be allowed compensation for exceeding one hundred and fifty days in any one year. An account shall be made out in items, with dates prefixed, accompanied with an affidavit of the member, stating that the items of such accounts are correct and just, and that the services therein mentioned have been rendered as stated, and no part of said account has been paid. The accounts shall be presented to the County Treasurer, who shall audit and, if correct, pay the same, out of funds accruing from taxes laid and collected for County purposes. Compensation of Commissioners. 1868, XIV, 133, § 29; 1869, XIV, 274, § 1. Proviso.

SEC. 32. No member of the Board of County Commissioners shall vote for an extra allowance to any person who is paid by salary, nor shall the Treasurer of said County knowingly pay to any such person any extra allowance. Every offence against the provisions of this Section shall be a misdemeanor, punishable by a fine not less than the amount of such extra allowance, or by imprisonment in the County jail, for a period not exceeding six months, or by both such fine and imprisonment. No extra allowance; penalty for making. 1868, XIV, 134, § 30.

Penalty for refusal to perform duty.

Ib., § 31. Amended by Com.

SEC. 33. If any County Commissioners shall refuse or neglect to perform any of the duties required of him by law as a member of the Board of County Commissioners, he shall, for every such offence, forfeit the sum of two hundred and fifty dollars, and be removed from office.

Annual estimates to be transmitted to the Comptroller General

Ib., § 33; 1871, XIV, 662, § 4.

SEC. 34. County Commissioners shall, annually, on or before the second Tuesday of September, prepare and make up the estimate for all County charges and debts for the fiscal year then ensuing, and of the rate of taxation necessary to raise money to meet the same; the estimates so made up and approved by them shall be recorded by their Clerk, in a book kept for that purpose, and a fair copy thereof, with a statement of the amount of borrowed money due from the County, and of the amount of taxes due and unpaid at the time of making said estimates, signed by the presiding Commissioner, and attested by their Clerk, shall, with the Treasurer's accounts, be sealed up and transmitted by the Clerk to the office of the Comptroller General of the State, to be laid before the General Assembly for approval.

Term of office.

1868, XIV, 134, § 37; 1870, XIV, 374, § 1.

SEC. 35. Members of the Board of County Commissioners shall hold their office for the term of two years, and until their successors are elected and qualified: *Provided*, If any person elected a member of said Board shall remove from the County without intention to return, be, or become, disqualified, be removed from office, resign or die, the said office, upon proper evidence thereof, shall be declared vacant by the Governor of the State, who shall thereupon, by proclamation, if the vacancy to be filled be for more than one year, call an election in said County to fill the unexpired term of said office, giving at least twenty days' notice thereof in the public prints circulating in the County.

Vacancies.

County Commissioners to furnish County Auditor and Treasurer office room.

1869, XIV, 275, § 5.

SEC. 36. It shall be the duty of the County Commissioners to furnish the County Auditor and Treasurer of their respective Counties office room, together with the necessary furniture, stationery, &c., for the same.

County Commissioners to provide medical aid for indigent sick.

Resolution, 1870, XIV, 421, § 1

SEC. 37. That the County Commissioners of the several Counties in the State are authorized, whenever, in their judgment, it is necessary, to appoint one or more physicians, whose duty it shall be to furnish medical aid to the indigent sick in their respective Counties; and, whenever accounts are rendered for the performance of such duty, the County Commissioners are to examine said accounts, and, if found correct, to audit the same, and give a warrant on the County Treasurer for their payment.

County Commissioners to provide hospital accommodations.

Ib., § 2.

SEC. 38. That the County Commissioners of the respective Counties of this State are authorized and required to provide suitable hospital accommodations in connection with the Poor House, at or near the County seats of their respective Counties, where the indigent sick poor may receive medical and surgical aid, free of charge, and to appoint physicians thereto, except the County of Charleston, where the County Commission-

ers are authorized and required to cause to be built, at or near Cordesville, Parish of St. John's Berkeley, a hospital for the indigent sick poor, and to appoint a physician thereto, to be paid as herein provided: *Provided*, That the cost of the said building shall not exceed two thousand (2,000) dollars: *Provided, further*, That no physician, so appointed to any of the hospitals, shall charge for his services more than one-half the usual fees.

County Commissioners of Charleston County to build hospital and appoint a physician.

Physician's fees.

SEC. 39. That if, at any time, the Court House of any County in this State shall be in course of reconstruction or repair, or from any other cause shall not be in condition to be occupied, it shall be the duty of the County Commissioners for such County to furnish suitable rooms for the accommodation of the Courts and public officers.

To provide rooms for Courts and officers, when. 1871, XII, 308, § 1.

SEC. 40. The County Commissioners of each County shall, on or before the fifteenth of December in each year, report to the General Assembly all accounts chargeable to their respective Counties; what have been allowed and settled; the number and amount of orders drawn upon the County Treasurer; the taxes levied and collected; the amount expended for rebuilding or repairing court house, jail, poor house and bridges; in fact, a detailed account of all their doings. And upon failure so to report, they shall be fined in a sum not less than fifty, nor more than two hundred dollars.

To report to General Assembly. 1871, XIV, 607, § 1.

Penalty.

CHAPTER XX.

OF COUNTY SHERIFF.

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4. Clerk to act until Coroner takes charge or vacancy filled.
5. Coroner to act when Sheriff is interested.
6. Sheriff to file bond.
7. Amount of bond, and number of sureties.
8. Liability of sureties; proviso.
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10. No Sheriff, Deputy or Clerk to be allowed to act as an attorney, or hold office of Clerk of Court.
11. Sheriff may appoint Deputies.
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61. Sheriff's fees.
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Election of Sheriff.
1870, XIV, 338, § 1.

SECTION 1. There shall be a general election for the election of County Sheriffs held in each County, on the third Wednesday in October, A. D. 1872, and on the same day in every fourth year thereafter.

Vacancies, how filled.
Ib., 374, § 1.

SEC. 2. That in the event that a vacancy shall, at any time, occur in the office of Sheriff, in any County of this State, whether from death, resignation, disqualification, or other cause, the Governor shall have full power to appoint some suitable person, who, upon duly qualifying, according to law, shall be entitled to enter upon and hold the office for the unexpired term of the former incumbent, and shall be subject to all of the duties and liabilities incident to said officer, during the term of his service in said office: *Provided*, That no such unexpired term for which an appointment is made shall, in any case, exceed one year.

Coroner to act as Sheriff during a vacancy.
1839, XI, 78, § 42.

SEC. 3. That the Coroner, during the continuance of such vacancy, and until the office is filled by appointment or election, shall assume the office, discharge its duties, incur its liabilities, and be entitled to its fees and emoluments; and shall, for such purpose, take charge of the books and papers of the office, and occupy the apartment allowed to the Sheriff for transacting the business of his office.

Clerk to act until Coroner takes charge or vacancy filled.
Ib., 113, § 39.

SEC. 4. That, in case of vacancy in the office of Sheriff, and until the Coroner for such County may take charge of the same, or until a Sheriff shall be elected and commissioned for such County, the Clerk of the Court for such County shall take possession of the jail of such County, and charge of the prisoners confined therein, and, also, possession of the Sheriff's office, and the papers therein.

Coroner to act when Sheriff is interested.
Ib., 78, § 41; 1785, VII, 215, § 9.

SEC. 5. If the Sheriff shall be a party plaintiff or defendant in any judicial process, execution, warrant, summons or notice to be served or executed within his County, the Coroner shall serve the same, and incur the liabilities of the Sheriff.

Sheriff to file bond.
1839, XI, 37, § 7.

SEC. 6. When any person shall be declared duly elected to the office of Sheriff, he shall be bound to file in the office of the County Commissioners, his bond, duly executed and approved, within thirty days from the time the election is declared.

Amount of bond and number of sureties.
1868, XIV, 19, § 1; 1839, XI, 37, § 7.

SEC. 7. That the Sheriffs of the several Counties, before receiving their commissions, shall enter into bonds, to be executed by them, and any number of sureties, not exceeding twelve, nor less than two, to be approved by a majority of the Board of County Commissioners, in the sum of ten thousand dollars, except in the County of Charleston, where the bond of the Sheriff shall be in the sum of twenty-five thousand dollars. And every Sheriff shall procure other satisfactory security when duly required.

Liability of sureties.

Proviso.
Ib., 391, § 4.

SEC. 8. Every surety to the bond of a Sheriff shall be liable for the whole penal sum therein expressed; nor shall any return of *nulla bona* on any execution against the Sheriff be henceforth necessary before legal resort may be had against his sureties, or any of them: *Provided*, That there shall be liability to contribution among the sureties aforesaid, as in cases of joint suretyship.

To take oath not to share profits of office.

Oath to enforce penalties against gaming.
Ib., 38, § 2; 1816, VI, 27, § 3.

SEC. 9. Every Sheriff, before entering on the duties of his office, in addition to the oath required by the Constitution to be taken by every person chosen or appointed to any office of profit or trust, shall take the following oath: "I, A B, swear, (or affirm, as the case may be,) that I am under no promise, in honor or law, to share the profits of the office to which I have been elected; and I will not, directly or indirectly, sell or dispose of said office, or the profits thereof, but will resign, or continue to discharge the duties thereof during the period fixed by law, if I so long live: So help me God;" and an oath to enforce the law against gaming, as follows: "I, A B, do solemnly swear (or affirm) that in the execution of the office of Sheriff to which I have been elected, I will, to the extent of my ability, enforce the penalties prescribed by law against gaming and the keeping of gaming tables, and will not fail to bring to justice all violations of the same that may come within my view or knowledge: So help me God;" which oaths shall be endorsed on the commission, and shall be taken and subscribed by the Sheriff before the Clerk of the County, and, at the next term of the Circuit Court in the County, he shall produce his commission, which shall be read in open Court, and recorded in the Journal of the said Court.

No Sheriff, Deputy or Clerk to be allowed to act as Attorney, or hold office of Clerk of Court.
1839, XI, 47, § 9.

SEC. 10. No Sheriff, Deputy Sheriff, or Sheriff's Clerk, during the time he is in any such office, shall act as an attorney at law, or solicitor in equity, in his own name, or in the name of any other person, or be allowed to plead or practice in any of the Courts in this State, nor shall he hold the office of Clerk of the Court of Common Pleas and General Sessions.

Sheriff may appoint deputies.
1870, XIV, 332, § 1.

SEC. 11. That the Sheriff of any County may appoint one or more deputies, to be approved by any Judge of the Court of Common Pleas of such County; and the oath which such Deputy is required to take by the thirteenth Section of this Chapter may be administered by any officer authorized to administer oaths within such County.

Certificate of appointment.
Ib., § 2.

SEC. 12. That the appointment of every such Deputy shall be evidenced by a certificate thereof, signed by his principal, and shall continue during the pleasure of the principal; and every principal may take such bond and security from his Deputy as he shall deem necessary to secure the faithful discharge of the duties of his appointment, and the principal shall, in all cases, be answerable for the neglect of duty or misconduct in office of his Deputy.

To take oath of office.

Duties of.
Ib., § 3.

SEC. 13. That every such Deputy shall, previous to entering on the duties of his appointment, take an oath or affirmation, as prescribed by the Constitution of the State, faithfully to perform all the duties of his appointment; and, when so qualified, the Deputy may do and perform any and all of the duties appertaining to the office of his principal.

Offices, where kept.
1839, XI, 39, § 5.

SEC. 14. The Sheriffs of the several Counties throughout this State shall keep their several offices in the city, town, village or place where the respective court houses are established, and in the court house, if there be one.

Books.
Ib., § 6.
2 Strob., 150.

SEC. 15. The Sheriff of every County shall keep and preserve as public records in his office the following separate books, of good material and strongly bound, each containing not less than eight quires of medium paper, and labelled with its appropriate title, to-wit:

Writ Book.
11 Rich., 581.

1. "Writ Book," in which the Sheriff, immediately on the receipt of any writ of *habeas corpus*, citation, writ of *capias ad respondendum*, summons, subpœna writ, subpœna ticket, rule, interrogatories, or notice to be served upon any person, *subpœna ad respondendum*, writ of *ne exeat*, injunction, warrant, attachment, or any other mesne process whatever, issuing from either of the Circuit or Probate Courts, shall make an entry thereof, with the date, and indorse on the original the time of such entry in his office. The Writ Book shall be laid off into separate and suitable columns, in which the Sheriff shall enter the names of the parties, the name of the attorney, the kind of process, the kind of action, or kind of offence, when entered, by whom served, how served, when served, or other return, and Sheriff's costs; and the Sheriff shall make a true index in the said book to all the entries therein.

Execution Book.

2. "Execution Book," in which the Sheriff, immediately on the receipt of any *fieri facias*, *capias ad satisfaciendum*, attachment for not performing decree, writ of *habere facias possessionem*, restitution, military, or other execution, or any other final process whatever, (which, according to law, may be lodged with him,) shall enter the same, and endorse on such final process the time of such entry in his office. The Execution Book shall be laid off into separate and suitable columns, in which the

Sheriff shall enter the kind of process, when lodged, and the time of the original entry, the names of the parties, the debt and interest, and (underneath, in the same column,) the attorney's, Clerk's, Sheriff's, and other costs, attorney's name, the amount received, date of levy or other return, or disposition of the execution, and receipts of plaintiff, attorney, Clerk, Sheriff, witnesses, or others entitled to costs, or their agents or representatives, and the Sheriff shall make and keep correct and double indexes in the said book of the cases entered therein.

Sale Book.
8 Rich., 267; 3 Strob., 231.

3. A "Sale Book," in which the Sheriff shall enter all sales which he may make under any order, decree, execution or final process, of any of the Courts of this State, or of any officer authorized by law to issue such process to the Sheriffs of this State, and he shall transcribe therein all levies which he shall have made, (specifying the property and the date of each levy,) and all advertisements of property levied on; and the parts of the said book in which accounts of sales shall be kept shall be divided into separate and suitable columns, in which the Sheriff shall enter the names of the parties, a description of the property sold, when sold, to whom sold, amount of sale, and, if bond be taken, the names of the sureties thereto, and statement of the time when due, and to what case or cases the proceeds of such sale have been applied, or to whom paid; and the Sheriff shall make and keep correct and double indexes in the said book of the cases entered therein. The Sheriff shall keep the mesne and final processes in his office, in suitable boxes, and in separate apartments. Final process shall be arranged alphabetically in the defendants' names, in boxes labelled with appropriate letters. The miscellaneous papers shall be arranged under suitable titles and labels, such as "Attachment Bonds," "Bail Bonds," "Bonds for the delivery of property," "Money Bonds," &c.

To turn over books, papers, &c., to successors.
1839, XI, 40, § 7; 1791, VII, 263, § 7; 1859, XII, 788, § 1. 5 Strob., 1'0.

Sec. 16. It shall be the duty of every Sheriff to turn over to his successor all the furniture appertaining to his office, the original writ book, and sale book, and also the original execution book, or a correct certified copy thereof, and also all original bonds officially taken by him, all mesne processes not served, and all final processes partially or wholly unexecuted; and if any Sheriff be dead, his personal representative shall so turn over the matters aforesaid; and the successor shall be bound to execute a receipt and duplicate, to be lodged in the Clerk's office, specifying the matters and things so received by him, and he shall be responsible for them. The retiring Sheriff, or his successor, neglecting or refusing obedience to the requisitions herein, shall, respectively, upon conviction by indictment, be liable to a fine of one thousand dollars, or an action may be instituted upon the official bond of any defaulting Sheriff in this behalf, for the penalty aforesaid. And it shall be the duty of such predecessor, who has levied upon personal property and not sold it, to deliver it to his successor at the time of turning over such books, bonds and processes, taking his receipt for the same, who is authorized to sell such property.

To summon Constables, &c.
1839, XI, 45, § 25.

SEC. 17. The Sheriff shall summon the requisite number of Constables to attend the Courts of Common Pleas and General Sessions, and provide a staff for each of them, and shall make a return of such summons to the Clerk of the Court.

To attend all Courts and to serve rules of Court.
Ib., 14, § 22

SEC. 18. The Sheriffs, or their lawful Deputies, shall attend all the Circuit Courts that may be held within their respective Counties, and enforce such rules as the said Courts may establish; and during the term time of the said Courts, any Sheriff or his Deputy shall serve any rule of such Court or writ of attachment, for any contempt thereof, on any party or witness in any part of this State; and the party moving for the same shall be liable to pay such Sheriff the cost in cash for such service, on the return of such rule or writ of attachment.

Duties and liabilities.
Ib., 41, § 10; 1808, V, 571, 7; 1784, VII, 209, § 11; 179, 263, 6. Code of Procedure, § 134.

SEC. 19. The Sheriff, or his regular Deputy, shall serve, execute, and return every process, rule, order or notice. issued by any Court of record in this State, or by other competent authority; and if the Sheriff shall make default herein, he shall be subject to rule and attachment as for a contempt, and he shall also be liable to the party injured, in a civil action.

Liability for illegal arrest.
1839, XI, 41, § 11. Constitution, Art. 2 § 17; Art. 8, § 6.

SEC. 20. If any Sheriff or Deputy Sheriff, without writ, warrant or process, shall summon any one, by arresting the person or attaching the goods, to appear in any of the Courts in this State, (not having at that time any process to justify the same,) upon complaint thereof, on oath, such Sheriff or Deputy shall be liable to be punished for a contempt, by either the Court of Common Pleas or General Sessions for his County: *Provided*, That nothing herein contained shall prevent the Sheriff or his Deputy from arresting any person for treason, felony, or breach of the peace, committed in his presence, or from arresting any person for treason or felony, upon probable and reasonable grounds.

No person to be arrested while engaged in military or militia duty. Exception.
Ib., § 12.

SEC. 21. No person shall be arrested while actually engaged in or attending military or militia duty, or going to or returning from the same, nor while attending, going to, or returning from any Court, as party or witness, or by order of the Court, except for treason, felony or breach of the peace; but in such case process may be served without actual arrest of body or goods.

Process, how and when served; no female to be arrested; exception.
Code of Procedure, § 202.

SEC. 22. No civil or criminal process shall be served on Sunday, except for treason, felony or breach of the peace. Nor shall any female be arrested in any civil action, except for a willful injury to person, character or property.

Escaped prisoner may be retaken on Sunday, &c.
1839, XI, 45, § 27.

SEC. 23. It shall be lawful for the Sheriff, Deputy Sheriff, or Jailer, to re-take on Sunday, as on any other day, and at Court, muster or any other place, any prisoner who has escaped.

SEC. 24. The Sheriff, or his Deputy, shall arrest all persons against whom process for that purpose shall issue from any competent authority, commanding such person to be taken into custody, or requiring him or her to give bond, with security; and if the party so arrested, being entitled to bail, shall give it, or shall give the bond with security required, such person shall be enlarged; and if not, he, or she, shall be kept in custody until discharged from confinement, according to law.

Power to arrest and take bail.
Ib., 42, § 13.
1 Bay., 322.

SEC. 25. Every bail bond shall be payable to the Sheriff or his successors in office, and may be assigned to the plaintiff.

Bail bond to be payable to Sheriff.
Ib., § 14; Sec Code Procedure, Title VII.

SEC. 26. No Sheriff shall take any attorney at law, or any officer of Court, as bail for any person whomsoever, in any civil or criminal case.

Not to take Attorney or other officer as bail.
Ib., 45, § 24.

SEC. 27. That the Sheriff, on pain of being attached and amerced, shall, at the time he returns *cepi corpus* on any *mesne* process of any of the Courts, to him directed, indorse on the back of such process the name or names of such person or persons as shall have become bail for the defendant, if the said defendant shall have been let to bail.

To indorse return on back of process.
Ib, 45, § 24.
Code Procedure, § 215.

SEC. 28. It shall be lawful for the Sheriff, or his Deputy, to break and enter any house (after request and refusal,) to arrest the person or to seize the goods of any one in such house, provided such Sheriff, or his Deputy, have process requiring him to arrest such person or seize such goods.

To break into any house in certain cases.
Ib., 43, § 16.
Code of Procedure, § 237
1 Bay., 358.

SEC. 29. It shall be the duty of the Sheriff of every County in this State, on the receipt of any money in his office on account of any plaintiff in execution, or other person entitled thereto, within one month, to give notice, in writing, of the same, to such plaintiff or his attorney, or other person entitled to the same, by personal service, or through the post office; and, on failure so to do, he shall be liable to pay interest for the money in his hands, at the rate of five per cent. per month, till such notice is given.

To give notice of money in his hands.

To pay interest for failure.
1856, XII, 534.

SEC. 30. No Sheriff shall be liable to be served with any rule to show cause, or attachment, at any time after two years from the expiration of his office.

Not liable after two years.
1839, XI, 44, § 19; 1801, V, 412.

SEC. 31. Any Sheriff shall be liable to be proceeded against in any Court of Record in this State, for an open contempt, or for a breach of official duty. For an open contempt he shall be liable to be attached forthwith; and for a breach of official duty he may be required, by rule, to answer to the complaint of any suitor of the Court, and, upon failing, to answer or to comply with the order of the Court, made on hearing of

Liable to be proceeded against for contempt.
Manner of proceeding for breach of official duty.
Proviso.
1839, XI, 44, § 20.
1 Spear, 89.

said rule, he shall be liable to be attached as for a contempt, and committed to close custody, until he shall have complied with the requisition of the Court: *Provided*, That, in all cases, interrogatories may be propounded to him, which he shall answer on oath, either orally or in writing, as the Court may order.

Liable to attachment for contempt for failure to execute final process, or pay over money.

Ib., § 21. 2 McM., 155; 10 Rich., 120.

SEC. 32. If any Sheriff shall fail to execute, or return, final process in any civil suit, or to pay over money, when demanded, that has come into his hands as Sheriff, to the party entitled thereto, and shall be unable, on the return of the rule that may be issued against him, to show sufficient cause, he shall be liable to be attached for a contempt, and committed to custody until he shall comply with the order of Court.

To be deemed guilty of official mis-conduct; when.

Punishment on conviction

Proviso. 1841, XI, 296.

SEC. 33. If any Sheriff shall be attached for contempt, for failing to execute, or to return final process, in any civil suit, or for not paying over, to the party entitled, money which has come into his hands as Sheriff, and shall remain in contempt for the space of thirty days after such attachment ordered, every such Sheriff shall be deemed guilty of official mis-conduct, and shall be liable to be proceeded against by indictment, and, on conviction, be liable to fine of not exceeding one thousand dollars, and imprisonment not exceeding one year, and be removed from office: *Provided*, That nothing herein contained shall be construed to deprive any such Sheriff of his right to appeal from any order against him for a contempt, nor shall the provisions of this Chapter be taken to apply during the pendency of such appeal, nor until the same has been finally dismissed.

To pay over money one day after demand.

Penalty for refusal.

Proviso.

1846, XI, 358; § 1; 1849, XI, 55, § 63. 2 Bail., 412; 3 Rich., 1; 4 Rich., 206; 12 Rich., 286; 6 Rich., 319.

SEC. 34. If any Sheriff, upon the demand of any plaintiff, or of his attorney, shall willfully refuse to pay over any sum of money collected for such plaintiff, within twenty-four hours, the Sheriff so in default, besides being liable to rule and attachment, shall be liable also to pay to such plaintiff, or his legal representative, the said sum withheld, and interest thereon, for the time he may withhold such sum after demand, at the rate of five per cent. per month, and if any regular Deputy Sheriff, (in the absence of such Sheriff,) having such fund, shall refuse, one day after demand, to pay over the same, the Sheriff shall, for such default, be liable to the same penalties as are herein provided: *Provided*, That nothing herein contained shall apply to the detention of money on account of *bona fide* conflicting claims.

Sheriff to furnish statement of reasons for failure of execution when required

Ib., 53; 56; 1847, XI, 433, § 3; see § 315 of Code.

SEC. 35. That it shall be the duty of the Sheriff, in case of partial or entire failure to make execution, when required by any person having control of the execution, to furnish a written statement, subscribed by him, of the reasons for such partial or entire failure.

SEC. 36. If any Sheriff, or his Deputy, shall contract for, buy, or purchase any judgment, or decree of any Court, which it may become his

duty to enforce, or any execution lodged in his office, or cause the same to be done, directly or indirectly, the said Sheriff, or his Deputy, shall forfeit and pay, for every such offence, treble the amount of such judgment, decree or execution, one half of which said forfeiture shall be paid to the State and the other half to the informer; and the same shall be recoverable with full costs by action or by indictment in any Court of competent jurisdiction, and, by any such purchase, such judgment, decree, or execution shall be *ipso facto* satisfied.

Penalty for purchasing executions.

1839, XI, 47, § 36; 1823, VI, 213, § 1.

SEC. 37. If any Sheriff, or his Deputy, shall permit any prisoner, committed to his custody on mesne or final process, in any civil action, to go or be without the prison walls, without lawful authority, or if any Sheriff, or his Deputy, suffer such prisoner to go or be at large, out of the rules of the prison, (except by some writ of *habeas corpus*, or rule of Court, which rule shall not be granted but by motion in open Court,) any such going and being out of the prison walls, or prison rules, as the case may be, shall be adjudged and deemed an escape. If any Sheriff, or his Deputy, shall, after one day's notice in writing, given for that purpose, refuse to show any prisoner committed to his charge to the plaintiff at whose suit such prisoner was committed, or to his attorney, such refusal shall be adjudged to be an escape: *Provided*, That the Sheriff shall discharge a defendant in custody on mesne process in a civil case where the plaintiff is non-suited.

Penalty for permitting prisoners, committed by civil process, to go at large.

Proviso.

Ib., 45, § 26 and 29; 8 and 9 W. 3d, 27; 1742, II, 554-5, §§ 1-8; 1788, V, 80, §§ 8, 9. 1 Spear, 124.

SEC. 38. Where any person shall be taken on mesne or final process in any civil suit, and from inability to pay the demand, debt or damages, or find bail, if committed to the jail, and such person has no lands, tenements, goods, chattels, or choses in action, whereby his maintenance in jail can be defrayed, the plaintiff, or person at whose instance such party shall be imprisoned, shall pay and satisfy the same; and if such person, or his attorney, shall refuse or neglect, after ten days' previous notice, to pay, or give security to pay the same, when demanded, the Sheriff, or Jailer, in whose custody such prisoner is, may discharge him from such confinement: *Provided, however*, That such prisoner shall, before he is discharged, render, on oath, a schedule of all his estate, and assign the same.

In what cases plaintiff shall be liable for maintenance of debtor, &c.

Proviso.

1839, XI, 46, § 30. 2 McM., 340; 6 Rich., 228; 3 Strob., 161; 4 Rich., 323; 2 Spears, 400.

SEC. 39. Every Sheriff, Deputy Sheriff or Jailer, shall have power, and he is authorized, required and commanded to give due obedience to the execution of every writ of *habeas corpus*, made or signed by any person or persons by law empowered to grant the same, and shall do and perform any matter or thing which by the same he may be required to do; and if he shall willfully neglect, refuse or omit to obey or perform the same, when legally requested and demanded in such case, for each such neglect, refusal or omission, he shall forfeit the sum of five hundred dollars, to be recovered by indictment.

To execute writs of *habeas corpus*, &c.

Ib., 48, § 43.

Liable for negligent escape on mesne or final process.
Proviso.
Ib., 46, §§ 31, 32, 33.

SEC. 40. The Sheriff shall be liable for the negligent escape of any prisoner on mesne or final process to such damages as the plaintiff may have sustained: *Provided*, That the insolvency of the prisoner shall not mitigate the damages below the amount sufficient to carry costs.

Punishable as for escape of criminal.
1869, XIV, 309, 7; 1839, XI, 46, § 35.

SEC. 41. If any Sheriff, Deputy Sheriff, Jailer, or other officer, willfully suffer a prisoner in his custody, under conviction or under any criminal charge, to escape, he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to, or would be liable to suffer, upon conviction of the crime or offence wherewith he stood charged.

Punishment for accepting bribes.
1869, XIV, 309, § 8.

SEC. 42. If a Sheriff, Deputy Sheriff, Constable or other officer authorized to serve legal process, receives from a defendant or any other person any money or other valuable thing as a consideration, reward or inducement, for omitting or delaying to arrest a defendant, or to carry him before a Trial Justice, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by fine not exceeding three hundred dollars.

Penalty for purchasing at their own sales.
1839, XI, 55, § 59; 1823, VI, 213; 1791, VII, 263, § 8. 4 Strob., 293; 5 Strob., 77; 11 Rich., 109.

SEC. 43. No Sheriff, or Deputy Sheriff, shall be concerned or interested, directly or indirectly, in the purchase of any property sold by either of them officially; and if any such Sheriff or Deputy Sheriff shall be concerned or interested in any such purchase, at any such sale, made by either of them, he shall, on convictien thereof, be deprived of his office, and shall be liable to be fined and imprisoned at the discretion of the Court; and such purchase shall be null and void.

To pay proceeds to prior lien.
1839, XI, 55, § 60. 2 Bail., 412; 9 Rich., 86; 3 Rich., 1; 4 Rich., 121; 4 McM., 155.

SEC. 44. The Sheriff shall pay over the proceeds of sale of any real estate sold by him to any judgment having a prior lien thereon.*

May make title to property sold by predecessor.
1829, VI, 394; 1803, V, 57, § 25; 1839, XI, 55, § 61. 3 Strob., 202; 10 Rich., 35; 2 Hill, 395.

SEC. 45. In all cases where any Sheriff shall have, heretofore, legally sold, or, hereafter, shall legally sell any real or personal estate, and such Sheriff is now dead, resigned, or otherwise out of office, or shall hereafter die, resign, or otherwise go out of office before he shall have executed titles therefor to the purchaser, it shall be lawful for any subsequent Sheriff of the same County, upon the terms of sale being complied with, or satisfactory evidence produced that they have been complied with, to make and execute good and sufficient title to the purchaser, for the property so sold.

Moneys paid into the Circuit or Probate Courts to be deposited.
1868, XIV, 16, § 10.

SEC. 46. All moneys which shall hereafter be paid into the Circuit or Probate Courts of the State, or received by the officers thereof in causes

*NOTE.—By Section 313 of the Code, judgments do not of themselves constitute a lien upon real or personal property.

pending therein, shall be immediately deposited in some incorporated State Bank or National Bank, within the Circuit, of good credit and standing; or, if there be no such bank within the Circuit, then in such bank nearest to the place of holding the Court, in the name, and to the credit of the Court.

How to be drawn.
Ib., § 11.

SEC. 47. No money deposited as aforesaid shall be drawn from said banks, except by order of the Judge of said Courts, respectively, in term or in vacation, to be signed by such Judge, and to be entered and certified of record by the Clerk; and every such order shall state the cause in, or on account of, which it is drawn: *Provided*, That money paid into Court to be immediately paid out, need not be so deposited, but shall be paid upon order of the Court.

Proviso.

Judgment debtors selling property to pay proceeds to sheriff.
1871, XIV, 604, § 1, 2, 3.

SEC. 48. The entire proceeds of a sale or sales of property, subject to levy and sale, made by the judgment debtors, are to be paid over by said judgment debtors to the Sheriff in whose office such judgments, executions or decrees are lodged, to be applied by said Sheriff towards the satisfaction of the same; and, provided no objection shall be made in writing by either of the judgment creditors, and filed with said Sheriff, as to the price at which the said property may have been sold, within three months from and after the time such payment shall have been made, the sale or sales shall thereupon be considered confirmed; and the said Sheriff shall make the following endorsement on the back of the deed or deeds of conveyance, viz.: "No objection having been filed in my office to the within bargain and sale, within the time prescribed by law, this bargain and sale is therefore confirmed;" the same to be dated and signed officially by the said Sheriff.

When and how such sales are confirmed.

Sheriff's endorsement on deed of conveyance.

Proceedings if judgment creditors object to sale.
Ib., 605, § 2.

SEC. 49. Should either of the judgment creditors object to the prices at which any of the said property may have been sold, and file such notice with the Sheriff within the time before mentioned, the Sheriff shall immediately proceed to levy upon and offer for sale said property, proceeding, in all respects, according to the law in regard to levy and sale by the Sheriff; and if the highest bid made for said property shall not be more than the amount of the indebtedness which had been cancelled by the sale made by the debtor, the Sheriff shall withdraw said property from sale; and the creditor or creditors who may have filed their objection shall be required to pay all costs and expenses that accrued in consequence thereof.

Endorsement on conveyance.
Ib.

SEC. 50. The Sheriff shall make the following endorsement on the back of the conveyance made by the debtor, viz.: "Objection having been filed in my office by ————————, judgment creditor, I levied upon and exposed for sale the property within named; and failing to receive a higher bid than the amount of indebtedness cancelled by the proceeds of the within bargain and sale, this sale is therefore confirmed," and signed as directed in Section forty-eight of this Chapter.

Proceedings if property sold by Sheriff brings more than when sold by debtor.

Ib., § 3.

SEC. 51. In the event that the property, when so exposed for sale by the Sheriff, as provided for in Section forty-nine, should bring more than the amount of the indebteness cancelled by the proceeds of the sale made by the debtor, the purchaser from the debtor shall be refunded the amount paid by him, with interest from the time of payment, and the bargain and sale made by the debtor rescinded, and titles executed by the Sheriff to the purchaser at his sale; and, after deducting the costs and expenses by reason of the levy and sale, the remainder to be applied, according to law, towards satisfaction of the judgment or executions in his office.

To make sales ordered by Courts of Common Pleas and Probate.

1870, XIV, 324, § 1.

SEC. 52. That all sales of personal or real estate, or other interest, hereafter ordered to be made by the Courts of Common Pleas or Courts of Probate, shall be made by the Sheriff of the County in which said real or personal estate or other interest is at the time said sale is ordered.

Fees for such sales.

Ib., § 2.

SEC. 53. That in all sales by said Sheriff, under the order of Courts of Common Pleas, or under the order of the Courts of Probate, the fees of said Sheriff shall be the same as now fixed by law for sales by Sheriffs under executions issuing from the Courts of Common Pleas.

Shall forfeit fees and be subject to fine of $5 for default in returning warrants, &c., of Trial Justices

1836, VI, 552.

SEC. 54. If the Sheriff shall neglect or delay to return any warrant or other process pertaining to the Court of General Sessions, issued by a Trial Justice, ten days before the meeting of the Court, he shall forfeit his fees, and be subject to a fine of five dollars, for every such default, if, upon a rule to show cause, he shall fail to excuse himself to the satisfaction of the Court.

Sheriff to pay over money to his successor within one month.

1850, XII, 758, § 1.

SEC. 55. That it shall be the duty of every Sheriff, on the expiration of his term of office, to turn over to his successor all money remaining in his hands as Sheriff, within one month from the time his successor shall have entered on the duties of his office, and in the same manner as he is required to turn over to his successor the furniture, books, bonds, processes, and other papers; and the successor shall receive and be responsible for the money so turned over to him, in the same manner as he is liable for other money received by him as Sheriff.

Retiring Sheriff entitled to half commissions.

Ib.

SEC. 56. The retiring Sheriff shall be entitled to retain only one-half of the commissions allowed by law on moneys collected and so turned over, and his successor the other half, for paying out the same.

Liabilities, fine and imprisonment.

Ib.

SEC. 57. That the retiring Sheriff, or his successor, neglecting or refusing obedience to the requisitions herein contained, shall, respectively, upon conviction by indictment, be liable to a fine of one thousand dollars and imprisonment not exceeding twelve months; and he and the sureties to his official bond shall be liable to pay to the party entitled to receive such money, the amount due to such party, with interest thereon from the time his successor shall assume the duties of his office, at the

rate of five per cent. per month, until the whole amount shall be paid, to be recovered by action.

Personal representatives to pay over official moneys in nine months after the Sheriff's death.
Ib., 789, § 2.

SEC. 58. That, upon the death of any Sheriff, his personal representative or representatives shall likewise pay over to the successor in office of such deceased Sheriff, all moneys which such deceased Sheriff had in his hands, officially, at the time of his death, within nine months after he, she or they shall have assumed the administration of such estate; and upon his, her or their neglect or failure so to do, the estate of such deceased Sheriff, and the sureties upon his official bond, shall be liable to pay to the party entitled to receive such money, the amount due to such party, with interest at the rate of five per cent. per month thereon, after the expiration of such term of nine months, to be recovered by action.

Civil proceedings against Sheriff.
Ib., § 3.

SEC. 59. That the provisions of the two preceding Sections be deemed cumulative, and not to bar or affect any right of action, rule, or other proceeding authorized by law.

Collection of moneys.
Ib., § 4.

SEC. 60. That whenever a Sheriff shall collect moneys in cases that have been entered in the books of his predecessors, he shall enter the said cases in his own execution book, with an account of the said moneys so collected.

Sheriff's fees.
1870, XIV, 400, § 8. Rice, 301.

SEC. 61. The fees of Sheriffs, in cases herein specified, shall be as follows:

For entering every writ, process, warrant or execution, and making endorsements thereon, fifty cents; for serving every writ or summons, besides mileage, one dollar; for bond in any case, one dollar and fifty cents; for commitment and release, each fifty cents; for serving each venire for Grand Jury, ten dollars; for serving each venire for petit jury, twenty dollars; for serving each bench or other warrant in the sessions, attachment for contempt of Court, besides mileage, each one dollar and fifty cents; search for person or goods not found and returned on the execution *non est inventus* or *nulla bona*, besides mileage, one dollar; levy, attachment or other execution, besides mileage, one dollar and fifty cents; dieting persons, per day, forty cents; executing convict, including all charges for burial and other expenses, twenty-five dollars; bringing up prisoner under *habeas corpus*, to be paid by the prisoner, if able, (if not, by the County,) besides mileage, two dollars; conveying prisoner from one place to another, besides all necessary expenses, and returning, ten cents per mile; each guard for Sheriff, in conveying prisoner, two dollars per day; commissions on all moneys collected by him, if under three hundred dollars, two per cent., if over that sum, two per cent. on the first three hundred dollars, and one per cent. on balance; one-half of one per cent. on all moneys paid out of office on all executions lodged; execution lodged to bind, with order not to levy, one dollar; advertising defendant's property, in addition to printer's bill, one dollar; drawing deed or mortgage, three dollars; bill of sale, one dollar and fifty cents;

each notice served on set of Managers of Election, besides mileage, one dollar and fifty cents; in case of ejectment, and ejecting tenant or others, five dollars; summoning Coroner's jury and witnesses, to be paid by the County, five dollars.

Liable to forfeit ten times amount of excess of improper fees. How recovered.

1840, XI, 151, § 8. McM., 275.

SEC. 62. If the Sheriff shall charge any other fees or for any other services than those allowed by law, he shall be liable to forfeit to the party injured, ten times the amount of excess of fees so improperly charged, to be recovered by action in the Court of Common Pleas, in which no imparlance shall be allowed, or by rule.

CHAPTER XXI.

OF COUNTY CORONER.

SEC.
1. Election of Coroners.
2. Coroners to perform duties of office until successors shall qualify.
3. To enter into bonds; sureties and amount of bond; where lodged.
4. To take oath to enforce law against gaming.
5. Governor to commission.
6. Coroners may appoint deputies.
7. Certificates of appointment of deputies.
8. Coroner not to act as Jailer. Deputy Sheriff, &c.
9. To keep an office at Court House; to keep book of inquisitions in his office.
10. Trial Justice to act as Coroner, in what cases.
11. Coroner to take inquests.
12. To view body of a person dying by the bite of a rattlesnake.
13. Coroner to act as Sheriff in cases in which the Sheriff is interested.
14. Vacancy in office of Coroner to be filled by the Governor temporarily; proviso.
15. Coroner to enter in a suitable book his proceedings as Sheriff; book to be left in Sheriff's office.
16. Not bound to act, except specially instructed, &c.
17. To make a list of prisoners when entering upon duties of Sheriff.
18. To turn over papers, &c., to succeeding Sheriffs.
19. Book of inquisitions.
20. Inquisitions, &c., to be returned to Clerk.
21. Endorsement on return.
22. Fees allowed to Coroners.

Election of Coroners.

1870, XIV, 338, § 1.

SECTION 1. That there shall be a general election for the election of County Coroners, held in each County, on the third Wednesday of October, A. D. 1872, and on the same day in every fourth year thereafter.

Coroners to perform duties of office until successors shall qualify.

Ib., § 2.

SEC. 2. That the County Coroners shall continue to perform the duties of their respective offices until their successors shall be elected and duly qualified.

SEC. 3. That the County Coroners, before receiving their commissions, shall enter into bonds, to be executed by them and any number of sureties, not exceeding twelve nor less than two, to be approved by a majority of the Board of County Commissioners, that is to say: Of the Coroner of Charleston County, ten thousand dollars; of the Coroner of each of the other Counties, two thousand dollars. Said bond to be lodged in the office of the County Commissioners of their respective Counties.

To enter into bonds. Sureties and amount of bond. Where lodged.
1868, XIV, 79, § 1.

SEC. 4. That every Coroner shall, before he is qualified to act, in addition to the oath of office, take an oath to enforce, and, to the extent of his power and ability, carry into effect the law against gaming, and, in all cases, to bring to justice violations of the same, whenever such violations shall come within his view and knowledge.

To take oath to enforce law against gaming.
1816, VI, 27, § 3.

SEC. 5. When a person has been elected, or designated for appointment, to the office of Coroner, and has taken and subscribed the oath of office and given bond, as required by law, it shall be the duty of the Governor to issue a commission to him accordingly.

Governor to commission.
New. Const., Art 2, § 30; Art. 4, § 30; Art 3, § 17.

SEC. 6. That the Coroner of any County may appoint one or more deputies, to be approved by any Judge of the Court of Common Pleas of such County, who shall take and subscribe the oath prescribed in Section 30, Article II, of the Constitution, prior to entering upon the duties of said office. Said oath may be administered by any officer authorized to administer oaths in the County.

Coroners may appoint deputies.
1870, XIV, 332 § 1.

SEC. 7. That the appointment of every such deputy shall be evidenced by a certificate thereof, signed by his principal, and shall continue during the pleasure of the principal; and every principal may take such bond and security from his deputy as he shall deem necessary to secure the faithful discharge of the duties of his appointment; and the principal shall, in all cases, be answerable for the neglect of duty or misconduct in office of his deputy.

Certificate of appointment of deputies.
Ib., § 2.

SEC. 8. No Coroner shall act as Jailer, Deputy Sheriff, or under any appointment by a Sheriff; and if any Coroner shall accept, or shall act under the appointment of the Sheriff of his County, his office shall be vacated, and the same shall be filled in the manner provided by law in case of vacancy from any other cause.

Coroner not to act as Jailer, Deputy Sheriff, &c.
1839, XI, 71, § 7.

SEC. 9. The Coroner shall keep an office at the court house in his County, which shall have proper fixtures, and in which shall be kept his book of inquisitions, which book shall be public property, and shall be turned over to his successor in office.

To keep an office at court house. To keep Book of Inquisition in his office.
Ib., 78, § 38.

Trial Justice to act as Coroner; in what cases.
Ib., 33, § 29.

SEC. 10. Any Trial Justice of the County is authorized and required to exercise all the powers, and discharge all the duties of the Coroner in holding inquests over the body of deceased persons, and taking all proper proceedings therein, in all cases when the Coroner of the County be sick or absent, or at a greater distance than fifteen miles from the place for such inquiry, or when the office is vacant.

Coroner to take inquests.
Ib., 72, § 8.

SEC. 11. Every Coroner, within the County for which he has been elected or appointed, is empowered to take inquests of casual or violent deaths, where the dead body is lying within his County.

To view body of person dying by bite of a rattlesnake.
1706, II, 273, § 10.

SEC. 12. That if any person shall be bitten by a rattlesnake, and shall die suddenly and immediately of such bite, such death shall be deemed a violent and untimely death, and the Coroner shall have a view of such body, and make enquiry thereon as of any other body that came to any other violent or casual death.

Coroner to act as Sheriff in cases in which the Sheriff is interested.
1839, XI, 78, § 41.
1 Speer, 174.

SEC. 13. If the Sheriff shall be a party plaintiff or defendant, in any judicial process, execution, warrant, summons or notice to be served or executed, within his County, the Coroner shall serve or execute such process, execution, warrant, summons or notice; in the discharge of which duties, he shall incur such liabilities as would, by law, attach to their performance by the Sheriff himself.

Vacancy in office of Coroner to be filled by the Governor, temporarily.
Ib., 71, § 3; 1870, XIV, 321, § 1.

SEC. 14. That in the event that a vacancy shall occur in the office of Coroner in any County of the State, whether by death, resignation or otherwise, the Governor shall, by proclamation, designate some Trial Justice of the County wherein the vacancy occurs, to act as Coroner until, by order of the Legislature, an election shall be had to fill the vacancy.

Coroner to enter in a suitable book his proceedings as Sheriff.
1839, XI, 79, § 43.

Book to be left in Sheriff's office.

SEC. 15. The Coroner, while discharging the office of Sheriff, shall provide a suitable book, in which he shall enter such executions or other papers as he may be directed to enter by competent authority; and also all new writs, processes, executions or other papers, proper to be entered by a Sheriff; and also all his proceedings as Sheriff, in manner and form Sheriffs are required by law to do; which book, or a certified copy thereof, he shall leave in the Sheriff's office, as a record.

Not bound to act, except specially instructed, &c.
Ib., 41.

SEC. 16. The Coroner shall not be bound to act upon any papers in the Sheriff's office, except he be specially instructed; nor shall he be bound to embrace, in his return to the Clerk's office, any execution found in the Sheriff's office which is not entered in his book, or upon which he may not have taken any proceedings.

SEC. 17. As soon as the Coroner shall enter upon the duties of Sheriff, he shall, in the presence of the Clerk of the Court, or Jailer of the County, if there be one, make a list of the prisoners in the jail, signed by himself and the Jailer, entered in the Coroner's book, and the original lodged in the Clerk's office.

To make a list of prisoners when entering on duties of Sheriff.
Ib., § 45.

SEC. 18. Upon retiring from the Sheriff's office, he shall turn over the papers of the office, and the prisoners in jail, to the succeeding Sheriff, in manner and form as Sheriffs may be required to execute the same duty.

To turn over papers, &c., to succeeding Sheriff.
Ib., § 46.

SEC. 19. Every Coroner shall keep a book, to be called "The Coroner's Book of Inquisition," into which he shall copy all inquests found within his County, together with the evidence taken before the jury, and all proceedings had before or after their finding.

Book of Inquisitions.
Ib., 77, § 31.

SEC. 20. The original inquisition and evidence, as taken by him, shall be returned by the Coroner, within ten days next after the finding thereof, to the Clerk of the Court of General Sessions for the County in which it was found.

Inquisitions, &c., to be returned to Clerk.
Ib., § 32.

SEC. 21. The Coroner, before he returns such inquisition and evidence, shall endorse the same in this form:

Indorsement on return.
Ib., § 33.

"SOUTH CAROLINA, }
County, }

The State *vs.* The Dead Body of A. B.

Inquisition taken this day of A. D. by Coroner for said County, entered and recorded in Coroner's Book of Inquisitions, page , this day of A. D. "

SEC. 22. The Coroner shall be entitled to the following fees: For every inquisition, ten dollars; for mileage going and returning, per mile, five cents; for each warrant issued, fifty cents; for each commitment, fifty cents; for each recognizance, seventy-five cents; for each body disinterred, three dollars; for recording proceedings in each inquisition in his book, per copy sheet of one hundred words, fifteen cents; for performing the duties of Sheriff, the same fees as are allowed Sheriffs for like services.

Fees allowed to Coroner.
1870, XIV, 399, § 4.

CHAPTER XXII.

Of the Clerk of Court of Common Pleas and General Sessions.

SEC.

1. Clerks of Sessions and Common Pleas; Deputy Clerks.
2. Special oaths to be taken; commission to be read in Court and entered in Journal.
3. Deputy's oath of office.
4. Certificates of appointment of Deputy Clerk.
5. Clerks to give bond before receiving commission: of sureties; amount of bond.
6. Office days and hours; duties, &c.
7. Clerical regulations of office; cases for papers; seal; record books.
8. Clerk to have charge of court house; penalty for keeping open at night.
9. To file original paper of records, &c. Filing of original papers in the Sessions; endorsement of other papers, and manner of filing. Labels; endorsements to be made upon the record; on bills of indictment; on Sessions papers; on executions. Original papers in dower—how filed.
10. Books to be used by Clerks: 1. Court of Common Pleas Journal; 2. Court of General Sessions Journal; 3. Indexes to Journals of Common Pleas and General Sessions; 4. Rules; 5. Dockets: entries in, made by Clerk; Sessions Docket—to contain what; Contingent Docket, to contain what; 6. Abstract of Judgments; what contains; 7. Sessions Index; 8. Pleadings and Judgments; 9. Confessions of Judgment before Clerk; 10. Fines and Forfeitures; 11. Trial Justices' and Constables' Roll; 12. Estrays; 13. Book of Orders appointing Receivers of Judgment Debtors; 14. Miscellaneous Index; names of aliens who have taken steps toward naturalization, persons concerning whom proceedings *de lunatico inquirendo* may be instituted, aliens naturalized, and certificates, &c., concerning corporations, &c., to be entered in.
11. Size of books required to be kept by Clerks.
12. To read Minutes to Judge before adjournment daily.
13. Books and records not to be removed from Clerk's office; pleadings may be inspected by parties, or their attorneys, during pendency of suit.
14. Abstract of lost judgments and decrees to be kept by Clerks where public records were lost or destroyed.
15. Clerk may administer oaths, &c., sign orders of reference—when; take renunciations of dower and inheritance.
16. Act as attorneys, &c.
17. Not to act as Sheriff or Deputy Sheriff.
18. To enforce jury laws.
19. To make roll of Jurors and Constables, showing amount due each, &c.; copy to be furnished County Commissioners; to furnish certificates to Jurors and Constables; form of certificate; certificates to be signed by the Judge, or Sheriff in his absence.
20. To adjourn Court in the absence of the Judge.
21. To issue executions, bench warrants, and all other processes; to sign all judgments officially.
22. To judge of sufficiency of security for costs when ordered to be given; directions as to undertaking.
23. To grant writs of *dedimus potestatem*—for what purposes.
24. Satisfaction of judgments and mortgages to be entered of record.
25. To advertise for election of certain officers, &c.; liable to indictment for wilful neglect.
26. To act as Judge of Probate when the office is vacant.
27. To act as Sheriff when that office is vacant.
28. Renewal or satisfaction of executions to be appropriately entered in abstract book.
29. To administer oath of office to Trial Justices; to transmit list of those who have qualified to Secretary of State.
30. Oaths, bonds and sureties of Constables. Clerk to furnish Constables certificates of qualification.
31. Clerks to render accounts under oath.
32. Accounts to be examined by Judge, and approved by County Commissioners.
33. Official certificates to be furnished certain officers by Clerk.
34. To furnish certificates of liens on property of persons offered as surety on bonds of public officers.
35. To keep weights and measures; same to be purchased by Governor.
36. Clerk to render annual accounts to County Commissioners; penalty for neglect.
37. Responsible for furniture and papers in his office; penalty for not transferring to his successor; liable for damages to same.
38. Fines, &c., to be turned over forthwith; to pay over annually taxes received from plays and shows.
39. Penalty for not paying over funds.
40. Penalty for not paying over fines and forfeitures. Penalty for not giving notice to County Commissioners.
41. To account for moneys at each session.
42. Bill of costs to be attached to executions.
43. Fees allowed to Clerks.
44. Liability for overcharges; how recovered.

Commissioners of Locations.

45. Clerks to be, in each County.
46. Oath to be taken as Commissioners.
47. To be provided with cases and books by County Commissioners.

Clerks of Sessions and Common Pleas. Deputy Clerk.

1868, XIV, 10, 17; 1870, XIV, 332, 1, 2, 3; Code of Procedure, 33.

SECTION 1. The Clerk elected in each County, under the provisions of Section 27 of Article IV of the Constitution, shall be Clerk of the Courts of General Sessions and Common Pleas, and may appoint a Deputy, to be approved by the Court of Common Pleas, a record of whose appointment shall be made in the Clerk's office; and in case no Clerk exists, the

Judge shall have authority to appoint a person, who shall perform the duties of Clerk, and be required to give the usual bond before entering upon the duties of the office.

Special oaths to be taken.
1816, VI, 27, § 3; 1839, XI, 89, § 2.

SEC. 2. Every Clerk aforesaid, before entering on the duties of his office, in addition to the oath prescribed by the Constitution for persons chosen or appointed to any office of profit or trust, shall take the following: "I, A B, do further swear (or affirm) that I am under no promise, in honor or law, to share the profits of the office to which I have been elected, (or appointed, as the case may be,) and I will not, directly or indirectly, sell or dispose of said office, or the profits thereof, but will resign or continue to discharge the duties thereof during the period fixed by law, if I so long live: So help me God;" which said oaths shall be endorsed upon the commission, subscribed by the officer, and attested by two Trial Justices of the County, for which the said Clerk shall have been elected or appointed; and at the opening of the first term of the Court which may be held thereafter, the said Clerk shall produce his commission, with the endorsements aforesaid, and after the same has been published, by being read in open Court, shall make a fair entry thereof in the Journals of the Court.

Commission to be read in Court and entered on journal.

Deputy's oath of office.
1870, XIV, 332, § 3

SEC. 3. That every such Deputy shall, previous to entering on the duties of his appointment, take the oath or affirmation prescribed by the Constitution of the State; and, when so qualified, the Deputy may do and perform any and all of the duties appertaining to the office of his principal.

Certificates of appointment of Deputy Clerk.
Ib., § 2.

SEC. 4. That the appointment of every such Deputy shall be evidenced by a certificate thereof, signed by his principal, and shall continue during the pleasure of the principal; and every principal may take such bond and security from his Deputy as he shall deem necessary to secure the faithful discharge of the duties of his appointment, and the principal shall, in all cases, be answerable for the neglect of duty or misconduct in office of his Deputy.

Clerks to give bond before receiving commission.
Of sureties.
1868, XIV, 19, § 1.

SEC. 5. That the Clerks of the Courts of Common Pleas and General Sessions of the Counties in this State, before receiving their commissions, shall enter into bond, to be executed by them, and any number of sureties, not exceeding twelve nor less than two, to be approved by a majority of the Board of County Commissioners, that is to say: The Clerk of the Court of Common Pleas and General Sessions for Charleston County, twenty thousand dollars; the Clerk of the Court of Common Pleas and General Sessions for each of the other Counties, ten thousand dollars.

Amount of bonds.

Office days and hours, duties, &c.
1839, XI, 100, § 4.

SEC. 6. That every Clerk shall give constant attendance, either by person or by deputy, in his office, (Sundays, Christmas Day, and Anniversary of American Independence excepted,) to be kept in a room to

be provided for that purpose, in the court house, and shall discharge all the duties required by law, or the rules of Court, from time to time, or that may be incident to the office; make a full, fair and correct entry and record of the proceedings of the Courts, and other matters pertaining to his office, in the various books required to be kept, conforming to the mode prescribed by law, order of the Court, or usage of the office; file, in their proper order, all original papers, in causes instituted, or other authorized proceedings, and preserve with care all papers, books and furniture pertaining to, or connected with, his office.

Clerical regulations of office.

Ib., § 5.

Cases for papers.

Seal.

Record books

SEC. 7. The office of every Clerk shall be furnished with suitable cases, with proper partitions for filing papers, under appropriate labels, well secured from dust by means of shutters filled with glass, to slide on rollers, with labels painted on the outside, indicating the kind of records; and on the case, inside, label the number roll (or, if in session, the term) of the papers contained within each partition; the lower part of which cases shall be divided into convenient apartments for the books of the office, with doors secured with proper fastenings, with labels painted outside indicating the particular descriptions of records contained in each division, that is to say: "Journals," "Dockets," "Records After Judgment," "Miscellaneous Records" and "Register's Department." Each office shall be furnished with a seal of office, with the proper device, a screw, and such blank books for the various records as may be needed from time to time, to be procured by the Clerk, the expenses thereof to be defrayed by the County Commissioners.

Clerk to have charge of court house.

Penalty for keeping open at night.

Ib., 101, § 6.

SEC. 8. Every Clerk shall have charge of the court house within his County; open the same, when required for public use, and at all other times keep it closed; and for every night any court house shall be kept open, the Clerk shall be liable to a penalty of five dollars, for the use of the County, to be recovered by indictment.

To file original papers of record, &c.

Ib., § 7.

Filing of original papers in the sessions.

Endorsement of other papers and manner of filing.

Labels.

SEC. 9. The original papers of record in each cause wherein judgment may be signed or confessed, or decree may be entered, shall be filed, according to the number of enrollment, in the book of abstracts of judgments, or of decrees, placing all the papers in each cause together. Original papers in the sessions shall be filed according to the term at which they were disposed of, alphabetically arranged for each term, according to defendants' names, all relating to the same cause together. Other papers required to be returned to, or kept in the office, shall be endorsed with the character, date of filing, and number on file, numbering each kind, from one onward, and keeping all relating to the same matters together, under the same number, and shall be filed according to date and number, in appropriate boxes, with suitable labels, put up in packages, rated according to the year in which they may be filed; upon the envelope or card there shall be an endorsement of the description or kind of papers therein, and reference to number, under the following heads: Bonds in Attachment, Bonds of Constables, Certificates from Supreme Court of Trial Justices' Appeals, Commissions, Inquests by Coro-

ner, Reports, &c., *de Lunatico Inquirendo*, Naturalization. *Venire Facias*, Estrays, Dower, Partition, Escheats, Affidavits, Attachments for Contempt and Rules, Sessions papers disposed of, to be transferred after judgment, where the same may be authorized. The following endorsement shall be made upon the record where the proceedings warrant it, viz.: On the judgment roll, the date when filed, number on docket, date and amount of judgment in figures, amount of taxed costs, judgment when signed, execution, date of issuing, and at the top, at some conspicuous place, the number roll. On Bills of Indictment, date and character of finding by Grand Jury, number on docket, arraignment, verdict or other disposition, and date, amount of taxed costs, execution, date of issuing, and kind. On all papers returned by Trial Justices in the Sessions, shall be endorsed their character, and date of filing. On every execution, before leaving the Clerk's office, shall be endorsed, near the top, the number roll, or, if in the Sessions, the term under which the case is filed, and in all instances, when an execution is returned for renewal, the fact and date of such renewal shall be endorsed on the execution so returned, and on the renewed execution shall be endorsed the date when first execution was lodged in Sheriff's office. All original papers in dower, partition of real estate, and inquisitions, shall be filed according to number roll, the papers pertaining to each case being placed together, and the number roll plainly endorsed on the envelope, or outside paper, and also the book and page of record.

Endorsements to be made upon the record.

On Bills of Indictment.

On Sessions papers.

On excutions.

Original papers in dower, how filed.

SEC. 10. That the books to be used by the several Clerks shall be well bound and of good materials, as follows:

Books to be used by clerks
Ib., 102, § 8.

1. "COURT OF COMMON PLEAS JOURNAL"—Which shall contain a full account of the proceedings of Court, from the opening to the adjournment, excluding motions refused. A short statement of each case called, and manner of disposition, and every order of reference, each under a general order, as far as may be; record of the names of the jurors composing each Jury; and all changes therein, and designating the Jury who may try each cause under the title thereof, together with an exact copy of their verdict; and whether upon trial before Jury or Judge, or by default, and if in default, whether in proof or reference, and all assessments, each in words at length, and not in figures; awards confirmed; confessions of judgment during Court; final judgment; copies of all orders passed, or motions granted, and other matters specially ordered by the Court to be entered.

1. Court of Common Pleas Journal

2. "COURT OF GENERAL SESSIONS JOURNAL"—To be kept in a separate volume, after like manner, as far as may be, and including the finding of Grand Juries on bills given out with their other presentments; and sentences of the Court on parties convicted; orders of estreat; fines imposed, and other matters specially ordered for entry by the Court.

2. Court of General Sessions Journal
Ib, ¶ 2.

3. "INDEXES TO THE RESPECTIVE JOURNALS OF THE COMMON PLEAS AND GENERAL SESSIONS"—To be alphabetically arranged at the end of each volume, which Index shall always be brought up by the first day of each succeeding term.

3. Indexes to Journals of Common Pleas and General Sessions
1850, XII, 70

4. Rules. 1839, XI, 103, § 8, ¶ 3.

4. "RULES"—In which shall be entered every case, on filing the complaint, showing, in separate columns, names of Parties, Plaintiff's Attorney, Defendant's Attorney, date of filing Complaint, date of Answer, Demurrer, etc., replication, and date of order for Judgment.

5. Dockets, entries in made by Clerk. Ib., ¶ 4. 8 Rich., 226.

5. "DOCKETS"—For Issue, Sessions, and Contingent, to be kept in separate volumes, for the use of the Court; and a Bar Docket, in a single volume, to be made on and before the meeting of the Court, and the Issue Calendar and Contingent, to be kept up as the pleadings are made up, or cases occur during the term, for both the Court and the Bar. No cause shall be entered on the Docket, except by the Clerk, or his Deputy, nor by him, until the pleadings are made up. The Dockets for the Court shall be regularly preserved as a record of the Court, and shall show, in separate columns, the number of Cause, number of Term, names of Parties, cause of Action, Plaintiff's Attorney, Defendant's Attorney, (and, in the Sessions, Prosecutor's name;) Order of the last Court, and place for the event of suit, to be entered by the Judge.

Sessions docket to contain what.

The Sessions Docket shall contain, separately arranged, cases of the previous term, under the title "Traverses;" and cases under the present term, under the title "Calendar."

Contingent docket to contain what.

The Contingent Docket shall contain, in the Sessions, all the Rules, Bills found in which Defendants have not been arrested, and cases struck off, but in which *nol pros.* has not been entered, to be called on motion of the Solicitor.

6. Abstract of judgments; what contains. Ib., ¶ 5; Code of Procedure, §§ 269, 288, 303, 305, 336, 337, 399, 400, 401.

6. "ABSTRACT OF JUDGMENTS"—In which shall be entered each case wherein judgment may be signed, including each case in dower, partition, and escheat, after judgment or final order, with separate columns, showing number of Enrollment, names of Parties, cause of Action, Attorney, date of Judgment, amount of Judgment, time of bearing Interest, how Judgment obtained, Costs, (separating Attorney, Clerk, Sheriff, Witnesses and Total,) kind of Execution, date of Issuing, Sheriff's Return, when Renewed, and Satisfaction, together with an Index, by the names of Defendants, and a cross Index by the names of Plaintiffs, each alphabetically arranged and kept in separate volumes, with the number of enrollment of Judgment.

7. Sessions Index. 1839, XI, 104, ¶ 7.

7. "SESSIONS INDEX"—By names of Defendants, alphabetically arranged, together with the offence charged, disposition of the case, and the term when ended, and number on file.

8. Pleadings and judgments. Ib., ¶ 8.

8. "PLEADINGS AND JUDGMENTS"—In which shall be entered, at length, the Complaint, Answer and Judgment in each cause wherein judgment may have been signed, and also the proceedings in Dower, Partition and Escheat, when the final order and judgment of the Court shall have been had, with an Index to names of Plaintiffs.

9. Confessions of judgment before Clerk. Ib., ¶ 9; Code of Procedure, §§ 399, 400, 401.

9. "CONFESSIONS OF JUDGMENT BEFORE CLERK"—Into which shall be entered such proceedings kept with reference to the number of enrollment in Book of Abstracts, instead of page, together with an Index to this particular volume, in the names of Defendants.

10. "FINES AND FORFEITURES"—In which shall be entered the names of all persons fined by the Court, or whose recognizance may be estreated, with separate columns, showing names, cause of fine, when fined, by whom fined, amount of fine, to whom due, when collected, by whom collected, why not collected, when paid over, and to whom.

10. Fines and forfeitures. 1839, XI, 104, ¶ 10.

11. "TRIAL JUSTICES' AND CONSTABLES' ROLL"—In which shall be entered the name of each Trial Justice and Constable, on taking the oaths of office, representing, in separate columns, the names, date of qualification, office, expiration of term, a genuine signature, and, in the case of a Constable, the names of the sureties to his bond, with an index of each name, alphabetically arranged.

11. Trial Justices' and Constables' Roll. Ib., ¶ 11.

12. "ESTRAYS"—In which book shall be entered, in separate columns, date of entry, kind of entry, description by appraisers, and their names, name of the Trial Justice, appraiser's valuation, by whom taken up, when sold, and disposition of proceeds.

12. Estrays. Ib., ¶ 13.

13. "BOOK OF ORDERS Appointing Receivers of Judgment Debtors."

13. Orders, &c. Code of Procedure, § 324.

14. "MISCELLANEOUS INDEX"—In which shall be entered, alphabetically, the names of all aliens who have taken any step towards naturalization; all persons concerning whom proceedings *de lunatico inquirendo* may be instituted; names of aliens naturalized; certificates and papers concerning corporations, and all matters required by law to be recorded and not otherwise provided for, referring to papers on file by number and label.

14. Miscellaneous Index. 1839, XI, 104, ¶ 14.

Names of aliens who have taken steps towards naturalization, &c.

SEC. 11. The preceding books, required to be furnished and kept by the Clerk, shall be of the following sizes, respectively:

Size of books required to be kept by Clerks. Ib., 105, § 8.

1. Court of Common Pleas Journal, General Sessions Journal, Rules, Fines and Forfeitures, and Estrays, each of the size denominated "Demi;" the Journals containing not less than six quires each, and the other books not less than three quires each.

2. Docket, Sessions Index, Confessions of Judgment before Clerk, Trial Justices' and Constables' Roll, Book of Orders Appointing Receivers of Judgment Debtors, and Miscellaneous Index, each of the size denominated "Broad Cap," the first named containing not less than two quires, and the remaining books not less than four quires each.

3. Pleadings and Judgments, in a volume not less than the size denominated "Medium," containing not less than six quires.

4. Abstract of Judgments, of the size denominated "Super Royal," containing not less than four quires.

5. Indexes to preceding volumes, of the size denominated "Long Demi," containing not less than six quires.

To read minutes to Judge before adjournment, daily.
1791, VII, 279, § 1.

SEC. 12. That to prevent false and erroneous entries in the Journals of the Courts of Common Pleas, it shall be the duty of the Clerks of the said Courts, respectively, on each day previous to the adjournment of the Court, to read over to the Judge who may preside the minutes or entries which shall have been made during the day in the said journal.

Books and records not to be removed from Clerk's office.
Pleadings may be inspected or copied by parties or their attorneys pending suit.
1839, XI, 105, § 9.

SEC. 13. The Clerk shall not, in any case, permit either the books or records to be removed from his office, though it shall be his duty at all times to permit either party to a suit, or his agent, or attorney, to inspect or copy, during the pendency of suit, any papers pertaining thereto, without charge, or to furnish, on application, certified copies thereof, on payment of fees per copy sheet.

Abstract of lost judgments and decrees to be kept by Clerks in Counties where public records were lost or destroyed.
1865, XIII, 255, § 2.

SEC. 14. The Clerk of the Court of Common Pleas in each of the Counties of this State, in which the public records in the custody of such officer were destroyed or carried away during the war of 1861, '62, '63, '64 and '65, or in any other way lost, shall, at the expense of the funds in the hands of the County Commissioners for his County, procure a book or books of proper size, and suitably ruled and securely bound, to be labelled "Abstracts of Lost Judgments and Decrees," or, "Of Lost Decrees," as the case may be, in which he shall enter an abstract of every judgment or decree, a new record of which shall be ordered to be substituted, setting out in distinct and appropriate columns all the particulars required to be ascertained by the order of the Court, and such entry shall, without other or further record, be good and sufficient in law for all purposes for which the original record itself could have been used, and of equal authority therewith in all respects.

Clerk may administer oaths, &c.; sign orders of reference, &c.
1839, XI, 112, § 32.

SEC. 15. That the Clerks may administer oaths, take depositions and affidavits, sign orders of reference in vacation made by consent of parties, and take renunciations of dower and inheritance.

May act as attorney.
1871, XIV, 538.

SEC. 16. They shall have the privilege of acting as Attorneys and Solicitors in all the Courts in the State, except in the Courts of their respective Counties, provided they shall have complied with the requirements of law regulating the admission of persons to practice as Attorneys, Solicitors and Counsellors in the Courts of this State.

Not to act as Sheriff or Deputy Sheriff.
1839, XI, 112, § 32.

SEC. 17. They shall not act as Sheriffs or Deputy Sheriffs, except as provided by Section 4, Chapter 20, of this Act.

To enforce jury laws.
Ib., 105, § 10; 1869, XIV, 236, § 7; 1871, XIV, 690.

SEC. 18. It shall be the duty of the Clerk, diligently and uprightly, to put in execution the laws of force directing the drawing, balloting, impanneling, and summoning of jurors, so far as his co-operation may be required.

SEC. 19. That immediately after the adjournment of any Court of Common Pleas and General Sessions, the Clerk thereof shall make out a roll of the Grand Jurors, and Petit Jurors and Constables who shall have attended the same, exhibiting the name, time of service, and amount due each Juror and Constable, and the term at which the service was performed, and shall enter the same on the Journals of the Court of the term when such service shall be performed, and shall forthwith transmit to the County Commissioners of the County a certified copy of such roll, and shall furnish each Juror and Constable with a certificate, in the following form:

To make roll of jurors and constables, showing the amount due each, &c.
1889, XI, 105, § 14.

Copy to be furnished County Commissioners.

To furnish certificates to jurors and constables.

"STATE OF SOUTH CAROLINA:

I, A B, Clerk of the Court of Common Pleas and General Sessions for County, in the said State, do certify that attended as a Juror, (or actually served as a Constable, as the case may be,) for said County, days at Term, A. D. , and is entitled to receive for the same dollars and cents;" which certificate shall be signed by the Clerk of the Court, who shall issue the same, and be countersigned by the presiding Judge; or, in any case where a Judge may not be present during the term, the certificate shall be countersigned by the Sheriff of the County; and, in addition to what is above described, shall set forth such absence of the Judge; and all certificates so issued and executed shall be valid.

Form of certificate.

Certificate to be signed by the Judge, or Sheriff in his absence.

SEC. 20. Whenever it shall so happen that any Court of Law in this State cannot be held at the time appointed, in consequence of the absence or indisposition of the Judge, it shall be the duty of the Clerk of such Court, or his Deputy, to open and adjourn the same from day to day, until the Court shall meet, or until he may receive due notice that the Judge will not be present, when he shall adjourn the same until the first day of the succeeding term.

To adjourn Court in absence of the Judge.
Ib., § 13.

SEC. 21. It shall be the duty of the said Clerk to issue every execution, bench warrant, or other process, issuable, or directed to be issued, by the Courts of Sessions, in the name of the Attorney General or Solicitor of the Circuit, and also to issue all rules and notices ordered in the Common Pleas, and test in his own name, under the seal of the Court, all writs and processes issued either in the Common Pleas or Sessions, and to sign officially all judgments, and state the time when each is signed and entered.

To issue executions, bench warrants and all other processes.
Ib., 107, § 16.

To sign all judgments officially.

SEC. 22. Whenever security for costs may be ordered to be given, or may be tendered, by any plaintiff, in vacation or in term time, the Clerk aforesaid shall witness the signature of the surety, and shall, in the first instance, judge of the sufficiency of the security; the form of the undertaking to be according to law, or the rule of Court on that subject, if there be no law.

To judge of sufficiency of security for costs when ordered to be given. Directions as to undertaking.
Ib., 110, § 22.

To grant writs of *dedimus potestatem*, for what purposes.
Ib., § 23.

SEC. 23. The Clerk, as to lands within his County, and deeds to be recorded in his office, is authorized to grant all writs of *dedimus potestatem*, directed to two or more Commissioners, for taking renunciations of dower, or releases of inheritance, from *femes covert*, or for the purpose of taking probate of the executions of all deeds under seal, where such *femes covert*, or the persons to prove such deeds, reside without the limits of this State.

Satisfaction of judgments and mortgages to be entered of record.
Ib., 109, § 19.

SEC. 24. It shall be the duty of the Clerk, or of the Register of Mesne Conveyances, as the case may be, in whose office any judgment or mortgage may be of record, on the receipt of the fees, to permit any judgment creditor, or his or her attorney, or any mortgagee, as the case may be, to enter satisfaction thereof, or if any Judge shall order satisfaction to be entered thereof, to enter of record satisfaction accordingly.

To advertise for election of certain officers, &c., liable to indictment for willful neglect.
1839, XI, 113, § 39 See Chapter X, 35, § 2.

SEC. 25. It shall be the duty of any Clerk, or acting Clerk, to advertise any election to be held for any Judge of Probate, Sheriff, or Clerk, to be elected in the County where such Clerk officiates, to supply any vacancy occurring in either of such offices, where such vacancy shall exceed one year, and issue notice to the Commissioners of Election to conduct the same, and for every willful neglect herein he shall be liable to indictment and punishment as for a high misdemeanor.

To act as Judge of Probate when the office is vacant.
1839, XI, 113, § 39.

SEC. 26. That in case of any vacancy in the office of Judge of Probate, the Clerk of the County shall take charge of said office, and all papers therein, and discharge the same duties, receive the same fees, and be subject to the same liabilities, as by law provided for a Judge of Probate, until a Judge of Probate shall be appointed by the Governor or elected and commissioned for such County.

To act as Sheriff when that office is vacant.
Ib.

SEC. 27. That in case of vacancy in the office of Sheriff, the Clerk of the County shall take possession of the jail of such County, and charge of the prisoners confined therein; and, also, possession of the Sheriff's office and the papers therein, until the Coroner for such County may take charge of the same, or until a Sheriff shall be appointed by the Governor or elected and commissioned for such County.

Renewal or satisfaction of executions to be appropriately entered in abstract book.
Ib., 109, § 19.
5 Rich., 534.

SEC. 28. Whenever any execution shall be returned for renewal or as satisfied by any Sheriff, the Clerk shall enter such renewal or satisfaction in the appropriate column of the abstract book, and, in case of satisfaction, shall enter the same on the original record, and it shall not be lawful for any Clerk to affix the seal of the Court to any renewed execution, unless the one previously issued shall have been delivered to him, or unless authorized by a Judge's order.

To administer oath of office, &c.
To transmit list of names to Secretary of State.
Ib., 112, § 30.

SEC. 29. It shall be the duty of the Clerk to administer the oath of office required to be taken by Trial Justices appointed within his County, on their application, within ninety days of such appointment; and on the first day of November, annually, he shall transmit a list of the names of Trial Justices who have qualified during the preceding year, to the office of Secretary of State at Columbia.

Oaths, bonds and sureties of Constables. Clerk to furnish Constables certificates of qualification. Ib., 31.

SEC. 30. It shall be the duty of the Clerk to administer the oaths of office required by law to be taken by a Constable, on his entering into bond, as prescribed, of the sufficiency of the surety to which the said Clerk shall judge, to be filed in the office of Clerk; and the Constable shall furnish a genuine signature of his name in the book prescribed, whereupon the Clerk shall furnish an official certificate of such qualification; and when such Constables as shall be summoned in writing by the Sheriff to attend each Court shall fail to appear, according to such summons, such default shall be noted by the Clerk, and such other proceedings had as in case of jurors in default, or as the Court may order.

Clerk to render account under oath. Ib., 113, § 35; 1869, XIV, 274, § 2.

SEC. 31. In all cases the Clerk shall render his account against the County for fees in State cases, under oath, to be taken and subscribed before the Judge or any Trial Justice of his County, in which the nature of the service shall be fully set forth, and if in the Sessions, the name of the party, offence, charge, and termination thereof, and which shall be credited with all moneys received by him and due to the County; nor shall any Clerk be entitled to receive any fees from the County, in any case where the defendant is convicted, unless he makes oath that such defendant has been discharged from inability to pay costs.

Accounts to be examined by Judge, and by County Commissioners. Ib.

SEC. 32. Before the accounts of Clerks shall be presented to the County Treasurer for payment, they shall be sworn to by said officers, examined and certified to by the Judge presiding in the Circuit Court in the County, approved and ordered to be paid by the County Commissioners.

Official certificates to be furnished certain officers by Clerks. 1839, XI, 113, § 36.

SEC. 33. In all cases where any Sheriff, Coroner, Trial Justice, or Constable, shall be required to obtain the official certificate of any Clerk to his contingent account, specifying any matters required by law to be certified, the Clerk shall furnish such certificates, according to the facts, upon application and payment of fees.

To furnish certificates of liens on property of persons offered as surety on bonds of public officers. Ib., § 37.

SEC. 34. It shall be the duty of the Clerk to furnish, free of charge, to the County Commissioners, when required, an official certificate of all liens that may be of record in his office, on the property of any individual who may be offered as surety to the bond of any public officer, whether by judgment, mortgage, or otherwise.

To keep weights and measures. Same to be purchased by Governor. 1840, XI, 173; 1850, XII, 300, § 1.

SEC. 35. The Clerk of the Court of Common Pleas and General Sessions of each County in this State shall furnish, and is required to keep in his office, the weights and measures established by law, which shall be the standards of all other weights and measures in said County, and to which any person shall have free access to test the same; and the Governor of the State is authorized and required to purchase such standard weights and measures out of the fines and forfeitures incurred in the respective Counties where such weights and measures are to be kept.

Clerks to render annual accounts of fines and forfeitures to County Commissioners.
Penalty for neglect.
1812, V, 710, § 27; 1819, VI, 139, § 14.

SEC. 36. It shall be the duty of the Clerk to return to the County Commissioners, on or before the last day of October in every year, an account upon oath, in duplicate, of all fines and forfeitures inflicted in their respective Courts during the preceding year, and of the amounts had and received by them, and of the manner in which said fines were disposed of, under penalty of two hundred dollars, to be recovered against any Clerk for default herein, by action. And it shall be the duty of the County Commissioners to request the Attorney General or Solicitors, as the case may be, to sue for and recover the said sum of every Clerk that may fail to render such account.

Responsible for furniture and papers in his office.
Penalty for not transferring to his successor.
Liable for damages to same.
1839, XI, 114, § 41.

SEC. 37. Every Clerk shall be responsible for the books, papers and furniture in his office; and upon his retiring from office, or death, he or his representatives shall be bound to transfer all such books, papers and furniture to his successor, immediately after such successor shall have entered upon the duties of his office, under a penalty of one thousand dollars, and imprisonment, not exceeding one year; but before surrendering such books, papers and furniture, the Clerk so retiring from office, or his representatives, shall be entitled to require from such successor, (who, under like penalty, shall be bound to execute the same,) a receipt, in writing, therefor, which shall specify the number, title and condition of every book, the number of records, as appears by the enrollment, and such other classification as it may be convenient to adopt from the arrangement of the office, all the packages of papers in office, and the description and condition of each article of furniture; a duplicate of which receipt shall also be given, and shall, by the Clerk so retiring from office, or his representative, be filed in the office of the County Commissioners for the County; and every Clerk, having retired from office, or his representatives, shall be liable to an action, in the name of the County, for damages for any books, papers and furniture, which shall be proven to have been in his possession, and shall not appear, by such receipt, to have been transferred to his successors, or, having been so transferred, shall appear to have been, through neglect, injured during his continuance in office.

Fines, &c., to be turned over forthwith.
To pay over annually taxes received from plays and shows.
1871, XIV, 655, § 1; 1813, V, 711, § 35; 1843, XI, 246, § 3.

SEC. 38. That all fines and penalties imposed and collected by the Circuit Court of General Sessions in criminal causes shall be forthwith turned over by the Clerk of said Court to the County Treasurer of the County wherein the same are imposed: *Provided*, That when, by law, any person or persons entitled, as informer or informers, to any portion of the fine or penalty imposed and collected, the same shall be immediately paid over to him or them. They shall also pay annually to the County Treasurers of their respective Counties, for the use of the State, all such moneys as may have come into their hands as taxes from persons representing, publicly, plays and shows within the limits of their said Counties.

SEC. 39. If any Clerk shall fail to pay over any moneys paid to him by order or permission of the Court, within five days after demand of

the person entitled to receive the same, he shall forfeit and pay five per cent. per month, until the same shall be paid over, to be recovered, together with such amount received, by action on his official bond, besides being subject to rule and attachment as for a contempt.

Penalty for not paying over funds. 1839, XI, 111, § 28.

SEC. 40. If any Clerk fail to pay over fines and forfeitures received by him, within five days after demand of the person entitled to receive the same, he shall forfeit and pay five per cent. per month, until the same shall be paid over, to be recovered, together with such amount received, by action on his official bond, besides being liable to rule and attachment as for a contempt. If he shall fail to give to some member of the Board of County Commissioners the notice required by law to be given, he shall forfeit and pay double the amount so detained without notice.

Penalty for not paying over fines and forfeitures.

Penalties for not giving notice to County Commissioners. Ib.

SEC. 41. At each stated session of the Court of Common Pleas, the Clerk thereof shall present an account to said Court of all moneys remaining therein, or subject to the order thereof, stating particularly on account of what cause or causes said moneys are deposited, which account, and the vouchers thereof, shall be filed in Court.

To account for moneys at each session. 1868, XIV, 17, § 13.

SEC. 42. That in every case in which a Clerk of the Court of Common Pleas shall issue an execution, he shall attach thereto a bill of each item of costs therein charged, and shall, on application of defendant in execution, tax all costs which accrue to the Sheriff for services on such execution.

Bill of costs to be attached to execution. 1827, VI, 336, § 5.

SEC. 43. The Clerks of Courts of Common Pleas and General Sessions shall receive, in cases herein specified, the following fees: For signing and sealing subpœna writ, State cases, fifty cents; for administering oath, twenty-five cents; for taking and filing bonds in attachment and other cases, one dollar and fifty cents; signing and sealing commissions to examine witness, one dollar; recording plat under order of Court, one dollar; rule of survey, one dollar; each official certificate under seal, fifty cents; issuing writ of attachment for contempt, or other special writ, one dollar and fifty cents; signing and sealing writ of *hab. fac. possessionem*, one dollar; receiving and paying over money officially, under three hundred dollars, two per cent.; over that amount, one per cent.; on bill *nol. pros.*, before given out, two dollars; on bill thrown out by Grand Jury, or found, and *nol. pros.* abated, discontinued or struck off, three dollars; on bill found and verdict by petit jury, four dollars; issuing bench warrant, two dollars; issuing each execution in Sessions, two dollars; signing and sealing writ of *habeas corpus*, three dollars; issuing warrants, taking recognizance or other services in Sessions, the same fees as allowed to Trial Justices; each writ of *venire facias*, including all services incident to summoning jurors, two dollars and fifty cents; preparing and issuing certificates for grand and petit jurors, and Constables, and furnishing return to County Commissioners, for each week of every term of the Court, ten dollars; furnishing advertisement in case of escheat, exclusive of printer's bill, and recording proceedings thereon, five dollars; for advertising and giving notice to Commissioners of Election, in case of va-

Fees allowed to clerks. 1870, XIV, 400, § 9. 2 Strob., 579.

cancy in office, each ten dollars; for license to an attorney, all incidental services included, five dollars; filing and entering notice of alien's intention to become a citizen, one dollar; filing and recording report of alien, one dollar; administering oath of intention, one dollar; filing and entering application to become a citizen and administering oath, two dollars; for giving certificate of citizenship, one dollar; taking renunciation of dower or inheritance, two dollars; for official record of estray and filing papers, one dollar and fifty cents; every search for a paper, fifteen cents; every search, with certificates, fifty cents; swearing Trial Justice or Constable in office, and certificate thereof and taking bonds, two dollars; for recording bonds of County officers, and certifying to same, one dollar and fifty cents; for every probate in writing, twenty-five cents; for signing *dedimus potestatem*, two dollars; for official certificate to exemplification of record, one dollar; for official certificate in case requiring seal, fifty cents; on every trial, from the party bringing it on, two dollars; on filing transcript, twenty-five cents; on entering judgment, fifty cents; copy papers, per copy sheet of one hundred words, twenty-five cents; signing and sealing each execution and renewal, fifty cents; for recording and copying deeds or other papers, per copy sheet of one hundred words, twenty-five cents; for every certificate on deeds or other papers, twenty-five cents.

Liability for over charges; how recovered.
1839, XI, 17, § 2.

SEC. 44. If any Clerk shall charge any other fees or for any other services than those allowed by law, he shall be liable to forfeit to the party injured ten times the amount of excess of fees so improperly charged, to be recovered by action in the Court of Common Pleas, or by rule, when the penalty may not exceed twenty dollars.

*Commissioners of Locations.**

Clerk to be, in each County.
Ib., 116, § 49.

SEC. 45. The Clerk of the Courts of Common Pleas and General Sessions in each County, shall be *ex officio* Commissioner of Locations in such County.

Oath to be taken as Commissioner.
Ib., 117, § 50; 1788, IV, 590, § 4.

SEC. 46. The Clerk, before entering upon the duties of his office, shall take and subscribe the following oath, viz: "I, A B, do swear, (or affirm,) that I will well and faithfully execute the office of Commissioner of Locations, for County, without giving a preference to any, through favor, fear, or reward, according to the best of my skill and ability: So help me God."

To be provided with cases and books by County Commissioners.
1839, XI, 117, § 53.

SEC. 47. The Commissioner of Locations shall be provided with a suitable case for papers, in which shall be filed, under appropriate letters or labels, the papers of his office, and with books of office, of good binding, by the County Commissioners. In one book shall be copied all warrants of survey granted; and in another, all returns thereon and plats certified, with an alphabetical index to each.

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* See further concerning their duties in Chapter VI, Title I, "Of Vacant Lands and the Granting Thereof."

CHAPTER XXIII.

Of Register of Mesne Conveyances.

SEC.
1. Elected by General Assembly.
2. Clerks of Court to be, except in Charleston and Georgetown Counties.
3. To give bond for five thousand dollars, to be approved by County Commissioners; to take oath of office; office, where kept, and hours when open.
4. Deputy Clerk may act as Deputy, or Register may appoint.
5. To record marriage settlements, conveyances and mortgages, renunciations of dower and inheritance, &c. Their execution to be proved by affidavit of a subscribing witness. Record and proof to be recorded one month after lodgment. Certificate of Register thereon. Two indexes to Registry Books to be kept.
6. To give certified copies of records on payment of fees. To pay damages for making incorrect transcripts or certificates.

SECTION 1. That each Register of Mesne Conveyances shall be elected by joint ballot of both branches of the General Assembly, and hold office for four years, and until another be elected, commissioned and enter upon the duties of his office.

Elected by General Assembly.

1812, V, 674; 1839, VI, 120, § 1.

SEC. 2. That the Clerk of the Court of Common Pleas and General Sessions of each County in the State shall be Register of Mesne Conveyances for the same, except for the Counties of Charleston and Georgetown.

Clerk of Court to be excepted in Charleston and Georgetown Counties.

1839, XI, 115, § 44. 1779, VII, 296, § 18.

SEC. 3. That the Register of Mesne Conveyances in the Counties of Charleston and Georgetown, before entering on the duties of office, shall give bond, with three good sureties, to be approved by the County Commissioners of their respective Counties, and of the form required by law, in the sum of five thousand dollars, to be lodged in the office of said County Commissioners; shall take the oath of office required by the Constitution, endorsed and subscribed on his commission, and enter the same, with the endorsement, on the records of the office; the said office of the Register for Charleston County to be kept at the fire-proof building in the city of Charleston; and the Register for Georgetown in the court house for that County; each to be kept open from 9 o'clock A. M. to 3 o'clock P. M., every day, except Sundays, Christmas days and Anniversaries of American Independence.

To give bond for five thousand dollars to be approved by County Commissioners.

To take oath of office.

Office, where kept, and hours when open.

1839, XI, 116, § 8

SEC. 4. That a Deputy Clerk may act as Deputy Register of Mesne Conveyances; and, in those cases where the offices shall be distinct, the Register of Mesne Conveyances may appoint a Deputy, in the same manner that Clerks of Courts are authorized to do.

Deputy Clerk may act as Deputy, or Register may appoint.

1839, XI, 116, § 46.

To record marriage settlements, conveyances and mortgages, renunciations of dower and inheritance: their execution to be proved by affidavit of a subscribing witness.

Record and proof to be recorded within one month after lodgment; certificate of Register thereon.

Two indexes to registry books to be kept.

Ib., 115, § 45. Code of Procedure, §§ 255, 314

SEC. 5. The Register of Mesne Conveyances is required to record, in well bound books, of the size not less than those denominated "Medium," kept for that purpose, in the order of the times at which they may be brought to his office, all marriage settlements, and all conveyances and mortgages, renunciations of inheritance and of dower, and other writings concerning the titles to lands situate in his County, which may be lodged with him to be recorded: *Provided*, That the execution of every such writing shall first be proved by affidavit of a subscribing witness, taken before some officer competent to administer an oath, or under a Commissioner authorized by law, or where the affidavit of a subscribing witness cannot be had, by reason of death, insanity, or absence from the State of such witness, that such fact be proved, together with the proof of the handwritings of the parties who signed, and of the subscribing witnesses; the proof, in every case, to be recorded with the writing; every such writing shall be recorded within one month after its lodgment, and the recording shall bear even date with the lodgment; on every such writing shall be endorsed a certificate, to be signed by the Register or his Deputy, specifying the time when, and book and page where, it was recorded; in the book, the names of the parties and nature of the writing shall precede the registry, and after it shall follow the date of the registry and a memorandum of the person to whom the original writing has been delivered. To the books of the registry, reference shall be had, by means of two indexes, each of which shall be in a separate book of the size denominated "Long Cap," both containing the year of registry, names of parties, book and page; the alphabetical arrangement of one being according to the names of the parties who executed the writings, and of the other, according to the names of the parties to whom they were executed; each index embracing a number of the volumes of registry, not less than ten.

To give certified copies of records on payment of fees.

1839, XI, 116, § 47; 1698, II, 138, § 5. 13 Rich., 72.

To pay damages for making incorrect transcripts or certificates.

1843, XI, 255.

SEC. 6. That the Register of Mesne Conveyances, or his Deputy, shall be required, on application, to give a certified copy of any writing recorded in his office, the fees for the same being first paid in advance, if required or tendered, as the case may be; or a certificate that no deed, conveyance, or mortgage, or other transfer of any particular parcel of lands, or tenements by any particular person, is registered in his office; and if the Register, or his Deputy, shall furnish an incorrect transcript of any deed recordeed, or an incorrect certificate, he shall forfeit and pay to the party the damages that may accrue in consequence thereof.

CHAPTER XXIV.

Of the Judge of Probate.

Sec.
1. Election for Judge of Probate. Term of office.
2. Governor to fill vacancies in office of. Not to make appointment to fill vacancy exceeding one year.
3. To give bond before receiving commissions, etc Sureties to be approved by County Commissioners. Bond in Charleston County $ 0,000; other Counties $5,000. To qualify thirty days after election.
4. No final discharge to Executor, etc., to be granted without public notice. Notice, how given
5. To make search, furnish copies, etc. Fees allowed.
6. To keep a seal. Description of.
7. Books to be kept: 1 Wills; 2. Inventories, Appraisements and sales; 3. Returns; 4. Real Estates; 5. Letters; 6. Bonds; 7. Cash Books. Cash Book to be a public record and open to public inspection. 8. Journals; 9. Indexes.
8. Manner of filing papers. Index to papers to be kept.
9. Clerk to file account of moneys remaining in Court.
10. Responsibility for books and papers. Penalty for not transferring to successor. Can require receipt for books, papers, etc., from his successor. Liable to an action for damages to books, etc Damages recovered to be appropriated—how.
11. To forfeit ten times amount of excess of fees improperly charged. How recovered.
12. Fees allowed to Judge of Probate.

Election for Judge of Probate; term two years

1870, XIV, 338, § 1.
Const., Art. 4, § 20.

SECTION 1. That there shall be an election for the office of Judge of Probate in each County, on the third Wednesday of October, A. D. 1872, and on the same day in every second year thereafter.

Governor to fill vacancies in office of. Not to make appointment to fill vacancy exceeding one year.

1870, XIV, 374, § 1.
See Chap. 22, § 26.

SEC. 2. That in the event that a vacancy shall occur in the office of Judge of Probate, whether from death, resignation, disqualification or other cause, the Governor shall have full power to appoint some suitable person, who, on being duly qualified according to law, shall be entitled to enter upon and hold the office for the unexpired term of the former incumbent, and shall be subject to all of the duties and liabilities incident to said office during his term of service: *Provided*, That no such unexpired term, for which an appointment is made, shall exceed one year.

To give bond before receiving Commissions; sureties to be approved by County Commissioners; bond in Charleston County $10,000; other Counties $5,000; to qualify in thirty days after election.

1868, XIV, 19, § 1.

SEC. 3. That the Judges of Probate in the several Counties of the State, before receiving their commissions, shall enter into bond, to be executed by them, and any number of sureties, not exceeding twelve nor less than two, to be approved by a majority of the Board of County Commissioners, for the faithful discharge of the duties of their office, to wit: Judge of Probate for Charleston County in the sum of ten thousand dollars; the Judges of Probate for the other Counties, each, in the sum of five thousand dollars. They shall qualify within thirty days after the election is declared.

No final discharge to executor, &c, to be granted without public notice; notice, how given.

1869, XIV, 263, § 1.

SEC. 4. It shall not be lawful for any of the Judges of Probate in this State to grant a final discharge to any executor or executrix, administrator or administratrix, trustee, guardian or committee without he, she or they first giving public notice in some County newspaper, (if there should be no newspaper published in the County, then in some public journal having the greatest circulation therein,) for the space of at least one month, that on a day certain he, she or they will apply to the Judge

of Probate for the County where his, her or their bond is filed, for a final discharge: *Provided*, The said publication shall be tri-weekly in the cities of Charleston and Columbia.

To make search, furnish copies, &c. Fees allowed. 1839, XI, 63, § 23.

SEC. 5. It shall be the duty of the Judge of Probate, when applied to, to search for and examine any book, record or paper belonging to his office, and to furnish any person wanting the same with a copy or copies of any part thereof, or of the whole or any part of any proceeding touching any estate or estates in his care or custody as Judge of Probate aforesaid, and to certify the same; for which respective services he shall be allowed at the rate of nine cents for each copy sheet the same may contain, and fifty cents for every certificate he shall so give.

To keep a seal, description of. Ib., 69, § 35.

SEC. 6. Every Judge of Probate shall keep in his office a die, in a circular form, upon the centre of which shall be engraved, in capital letters, the word "Seal," and on the circumference, the words, "Judge of Probate's office of County," which shall be regarded as the seal of his office, and which he shall impress upon all papers issued from his office, and affix his name to such papers.

Books to be kept.

Wills.

Inventories, appraisements and sales.

Returns.

Real estates.

Letters.

Bonds.

Cash Books; cash book to be a public record and subject to public inspection.

Journal

Indexes. Ib., § 31

SEC. 7. Every Judge of Probate shall keep the following books, (to be furnished by the County Commissioners,) each to be designated by its label, as follows, that is to say: 1st. "Wills," in which he shall enter a copy of all wills admitted to probate, together with the probate and certificate thereof. 2d. "Inventories, Appraisements and Sales," in which he shall enter all such matters as are designated by the title. 3d. "Returns," in which he shall enter all the accounts of the receipts and expenditures by executors, administrators and guardians, including the final settlement. 4th. "Real Estates," in which he shall enter all proceedings and orders in relation to the sale or division of real estates, from the petition to the bond of the purchaser, both inclusive. 5th. "Letters," in which he shall enter all letters granted, whether testamentary, of administration, or of guardianship. 6th. "Bonds," in which he shall enter bonds of administrators and guardians. 7th. "Cash Books," in which he shall open and keep a regular account with every individual or estate on whose account he has received any moneys, bonds, notes, stocks, choses in action, or other property of any description whatsoever, by virtue of his office, exhibiting fully everything so received by him, as well as all costs and charges against such estate, and disbursements in favor of the parties interested therein, or other disposition thereof, which book shall remain in his office as a public record, and be subject to public inspection. 8th. "Journal," in which he shall enter every judgment, sentence, decree, determination, denial, and every other act done, or order made by him, in his official capacity, so as to constitute a complete journal of the current proceedings of his office. Each of the said books shall be furnished with a full and complete alphabetical index, in the surnames of the parties to the several matters therein contained.

SEC. 8. The manner of filing papers in the Judge of Probate's office shall be as follows, to wit:

Manner of filing papers.
Ib., § 36.

The case shall be divided into convenient apartments, which shall be numbered from one forward. The papers relating to the same estate shall be wrapped in an envelope, as a package, and shall bear a number, and be endorsed in the name of the estate. A convenient number of packages shall be embraced in a strong envelope, and constitute a bundle, bearing the number of the apartment of the case containing it. A complete alphabetical index shall be constructed with reference to the surname of deceased persons to whose estate the papers relate, and of executors and administrators; and opposite each name in such index shall be two columns, the one expressing the number of the apartment where the bundle is to be found, and the other expressing the number of the package in such bundle which contains the papers relating to the estate named in the index.

Index to papers to be kept.

SEC. 9. At each stated session of the Probate Court, the Clerk thereof shall present an account to said Court of all moneys remaining therein, or subject to the order thereof, stating particularly on account of what cause or causes said moneys are deposited, which account, and the vouchers thereof shall be filed in Court.

Clerks to file account of moneys remaining in Court.
1868, XIV, 17, § 3

SEC. 10. Every Judge of Probate shall be responsible for the books and papers, and also for the furniture in his office; and upon his retiring from office, or upon his death, he or his representatives shall be bound to transfer all such books, papers and furniture to his successor, immediately after such successor shall have entered upon the duties of his office, under a penalty of one thousand dollars, to be recovered by indictment, and of imprisonment not exceeding one year. But, before surrendering such books, papers and furniture, the Judge of Probate so retiring from office, or his representatives, shall be entitled to require of his successor a receipt in writing therefor, which receipt shall specify the number and title of every book, and the number and description of every article of furniture, together with the order and condition of the books, papers and furniture; a duplicate of which receipt shall also be given, and shall, by the Judge of Probate retiring from office, or his representatives, be filed in the office of the Clerk of the Court of the County. And every Judge of Probate retiring from office, or his representatives, shall be liable to an action, in the name of his successor, for damages for any books, papers or furniture which shall have been proved to have been in his possession, and shall not appear by such receipt to have been transferred to his successor; which damages, when recovered, shall be appropriated to the replacing of such books, papers or furniture, or to the benefit of the parties who may have been injured by the loss of such books or papers; and an order for appropriating such damages shall be made by the Court before which such action may be tried.

Responsibility for books and papers.
1839, XI, 70, 37.
5 Rich. Eq., 491.

Penalty for not transferring to successor.

Can require receipt for books, papers, &c., from his successor.

Liable to an action for damages to books, &c.

Damages recovered to be appropriated—how.

SEC. 11. That the Judge of Probate shall be entitled to charge the following fees for the services required of him by law:

Fees allowed to Judges of Probate

1870, XIV, 401, § 10.

For petition for letters, etc., two dollars; for citation, one dollar; qualifying executor, administrator or guardian, issuing letters and recording same, four dollars; taking bond of administrator or guardian, and recording same, two dollars and fifty cents; issuing warrant of appraisement, one dollar; proving will in common form, two dollars; proving will in solemn form, ten dollars; for recording wills and certificates, per copy sheet of one hundred words, each figure counting a word, twenty-five cents; filing and entering renunciation of executor, one dollar; *dēdimus potestatem* to prove will or qualify executor, two dollars and fifty cents; recording inventories, appraisements and sales, per copy sheet of one hundred words, each figure a word, twenty-five cents; receiving, examining and filing annual returns, two dollars.

For first and final returns, each three dollars and fifty cents; for recording returns, per copy sheet of one hundred words, twenty-five cents; order for sale of personal property, one dollar and fifty cents; hearing and filing petition for guardians and appointment, five dollars; entering caveat and withdrawing same, one dollar; for hearing litigated cases, five dollars; issuing summons, for each witness, fifty cents; qualifying and examination of each, twenty-five cents; for proceedings in partition of real estate worth less than one thousand dollars, fifteen dollars; for appointing guardians *ad litem*, three dollars; for proceedings in partition of real estate worth more than one thousand dollars, thirty dollars; commissions on all moneys received and paid out, two per cent. on the first three hundred dollars, and one per cent. for all sums over that amount; for search, for each paper, fifteen cents; for certificate and seal, fifty cents; for copying papers on file in office, per copy sheet of one hundred words, twenty-five cents; for final discharge of executor, administrator or guardian, two dollars; for proceedings in dower, inclusive of all charges, twenty dollars; for proceedings in lunacy, inclusive, five dollars.

To forfeit ten times the amount of fees improperly charged. How recovered.

1839, XI, 17, § 2.

SEC. 12. If the Judge of Probate charge any other fees, or charge fees for any other services than those herein recited, he shall forfeit to the party injured ten times the amount of excess of fees so improperly charged, to be recovered by action in the Court of Common Pleas.

CHAPTER XXV.

Of Trial Justices.

SEC.

Appointment, Qualification and Removal.

1. To be appointed by the Governor by and with the advice and consent of the Senate.
2. Number of Justices for the several Counties.
3. Term of office, two years; change of domicil.
4. Governor may suspend from office for cause, and designate a substitute; case to be reported to Senate with particulars; confirmation of removal by Senate.
5. Governor may appoint in vacation, subject to approval of the Senate.
6. Oath of office.
7. Justices prohibited from keeping tavern.

Criminal Jurisdiction.

8. Jurisdiction in criminal cases.
9. Limit of penalty.
10. Assault and battery, and breaches of the peace.
11. May arrest rioters, &c., and require bonds or commit.
12. Petit larceny.
13. Stolen goods.
14. Obtaining property under false pretenses punishable as larceny.
15. To cause arrest of offenders escaping; to examine and bind over for high crimes, &c.; to punish for small offences.
16. Proceedings to be commenced on information; information may be amended; proceedings to be summary.
17. Offender may demand jury.
18. In Charleston to have jurisdiction of violations of ordinances.
19. May select any citizens to execute warrant of arrest; neglect—penalty for.
20. Proceedings in cases of felony.
21. May arrest and bind over material witnesses for State; for accused in felonies; fees allowed for but one warrant.
22. May command to keep the peace and arrest all who refuse obedience, or who commit any crime in his view; may call out the *posse comitatus*.
23. May admit to bail in all but capital cases.
24. To arrest persons who are about to leave the State to fight duels, and bind over to keep the peace.

SEC.

Civil Jurisdiction.

25. How tenants holding over may be removed.
26. Proceeding in cases of forcible entry and detainer.
27. May eject certain tenants at expiration of contracts. Method of proceeding.
28. To serve notice on trespassers, and on their failure to obey, to eject them by force; proviso.
29. Fees of Trial Justice, and of Sheriff or Constable, in such cases.

Courts of Trial Justices.

30. Parties entitled to a trial by jury.
31. Selection of juries.
32. Penalty on delinquent jurors.
33. May punish for contempt; punishment.
34. Parties may appeal.

General Powers and Duties.

35. May administer oaths.
36. May summon witnesses; refusal to testify—how punishable.
37. May take depositions in certain cases; parties to have notice, &c.; delivery, &c., of deposition to Trial Justice.
38. May allow bail, take renunciations of dower, releases of inheritance, &c., in certain cases.
39. May act as Coroner in certain cases.
40. Two Trial Justices to grant writs of *habeas corpus*; penalty for refusal in proper cases.
41. To keep two books of record, one for civil and the other for criminal cases.
42. To return all papers pertaining to the Court of Sessions to the Clerk.
43. Penalty for neglect.
44. Fines and penalties to be forthwith turned over to the County Treasurers; proviso as to informers, &c.
45. Failure to pay over fines—how punished.
46. May arrest for offences against the United States; processes returnable to Clerk of United States Court; offender to be removed to the proper County.
47. Fees.
48. Fees for rules against Constables.
49. Accounts paid only upon oath that costs cannot be collected of defendants, and that fines, &c., have been paid to County Treasurer.
50. Penalty for unauthorized charge—how recovered.

Appointment, Qualification and Removal.

To be appointed by Governor, by consent of the Senate.

1870, XIV, 376, § 1.

SECTION 1. The Governor, by and with the advice and consent of the Senate, shall, from time to time, appoint and commission, in the several Counties of the State, a suitable number of Trial Justices.

Number of Justices for the several Counties.

Ib., 377, § 2. Dudley, 152.

SEC. 2. Such Trial Justices shall be distributed as the convenience of the several Counties requires, and the number in commission shall not exceed: In Abbeville, nine; Anderson, sixteen; Barnwell, ten; Beaufort, ten; Charleston, twenty-four; Chester, eight; Clarendon, six; Colleton,

ten; Chesterfield, four; Darlington, eight; Edgefield, eight; Fairfield, eight; Georgetown, five; Greenville, eight; Horry, six; Kershaw, six; Lancaster, four; Laurens, five; Lexington, seven; Marion, six; Marlboro, six; Newberry, seven; Oconee, five; Orangeburg, seven; Pickens, five; Richland, eight; Spartanburg, twelve; Sumter, eight; Union, eight; Williamsburg, eight; York, eight.

Term of office two years. Ib., § 5.

Change of domicil.

SEC. 3. Trial Justices shall be commissioned and hold their offices for the term of two years, unless sooner removed by the Governor. If a Trial Justice changes his domicil, and removes therefrom the distance of three miles, his authority and jurisdiction as such Justice shall thereupon cease, and another Trial Justice may be designated and appointed in his place.

Governor may suspend from office for cause, and designate a substitute. Ib., § 4

Case to be reported to Senate with particulars.

Confirmation of removal by Senate.

SEC. 4. The Governor is authorized to suspend from his office, for such causes as to him shall seem just, any Trial Justice, and to designate another person to perform the duties of such suspended officer, (who, in turn, may be removed and another designated,) and he shall report such suspension to the Senate, together with the name of the person designated by him to perform the duties of such suspended officer; and if the Senate confirms the person so designated, the officer suspended shall be regarded as removed, and the vacancy duly filled; but if the Senate refuses to confirm him the suspended officer shall be restored to his office.

Governor may appoint, in vacation, subject to approval of the Senate. Ib., § 6.

SEC. 5. During the vacation of the Senate, the Governor is authorized to appoint Trial Justices, subject to the approval of the Senate, to act, unless sooner removed by him, till the end of the next session. If not approved by the Senate, said appointments shall cease at the end of the said session.

Oath of office. 1868, XIV, 100, § 2.

SEC. 6. On receiving such commission, and before entering upon the duties of their offices, such Trial Justices shall take and subscribe, before the Clerk of the Court of their respective Counties, the oath required by Section 30, Article II, of the Constitution, and file the same in his office, unless in Counties where such Clerks may not be qualified according to law; and, in such cases, the said oath shall be administered by any officer authorized to administer oaths in the County where such Trial Justice may be appointed; and such oath, so administered, shall be filed in the office of the Secretary of State. And such Trial Justices may immediately enter upon the discharge of their duties.

Justices prohibited from keeping tavern, &c. 1791, VII, 269, § 18.

SEC. 7. That it shall not be lawful for any person exercising the office of a Trial Justice within this State to keep any tavern, or to retail spirituous liquors, nor shall any license for retailing spirituous liquors be granted to any person exercising the office of a Trial Justice, nor to any person or persons in his house or family, or for his emolument; and if any person or persons shall offend against the true intent and meaning of this Section, he shall forfeit and pay the sum of two hundred and fifty dollars to any person or persons who will inform or sue for the same, and be forever thereafter rendered incapable of serving in the office of a Trial Justice in this State.

Criminal Jurisdiction.

SEC. 8. Trial Justices shall have and exercise, within their respective Counties, all the powers, authority and jurisdiction, in criminal cases, hereinafter set forth.

Jurisdiction in criminal cases.
1870, XIV, 402, § 1.

SEC. 9. Trial Justices shall have jurisdiction of all offences which may be subject to the penalties of either fine or forfeiture not exceeding one hundred dollars, or imprisonment in the Jail or Work House not exceeding thirty days; and may impose any sentence within those limits, singly or in the alternative.

Limit of penalty.
Ib., § 2.

SEC. 10. They may punish by fine, not exceeding one hundred dollars, or imprisonment in the Jail or House of Correction not exceeding thirty days, all assaults and batteries, and other breaches of the peace, when the offence is not of a high and aggravated nature, requiring, in their judgment, greater punishment.

Assault and battery and breaches of the peace.
Ib., § 3.

SEC. 11. They may cause to be arrested all affrayers, rioters, disturbers and breakers of the peace, and all who go armed offensively, to the terror of the people, and such as utter menaces or threatening speeches, or otherwise dangerous and disorderly persons. Persons arrested for any of said offences shall be examined by the Trial Justice before whom they are brought, and may be tried before him, and, if found guilty, may be required to find sureties of the peace, and be punished within the limits prescribed in Section 9, or, when the offence is of a high and aggravated nature, they may be committed or bound over for trial before the Court of General Sessions.

May arrest rioters, &c., and require bonds or commit.
Ib., § 4.
2 Hill, 410.

SEC. 12. They shall have jurisdiction of larcenies by stealing of the property of another, of money, goods or chattels, or any bank note, bond, promissory note, bill of exchange, or other bill, order or certificate, or any book of accounts for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land or any other valuable contract in force, or any receipt, release or defeasance, or any writ, process or public record, if the property stolen does not exceed twenty dollars in value.

Petit larceny.
Ib., 403, § 5.

SEC. 13. They shall have jurisdiction of the offences of buying, receiving, or aiding in the concealment of stolen goods and other property, where they would have jurisdiction of the larceny of the same goods or property.

Stolen goods.
Ib., § 6.

SEC. 14. They shall have jurisdiction of the offences of obtaining property by any false pretence, or by any privy or false token, or by any game, device, sleight of hand, pretensions to fortune telling, trick or other means by the use of cards or other implements or instruments, where they would have jurisdiction of a larceny of the same property, and may punish said offences the same as larceny.

Obtaining property by false pretences punishable as larceny.
Ib., § 7

To cause arrest of offenders escaping. To examine and bind over for high crimes, &c; punish small offences.

Ib., § 8

SEC. 15. They shall cause to be arrested all persons, found within their Counties, charged with any offence, and persons who, after committing any offence within the County, escape out of the same; examine into treasons, felonies, grand larcenies, high crimes and misdemeanors; and commit or bind over for trial those who appear to be guilty of crimes or offences not within their jurisdiction, and punish those guilty of such offences within their jurisdiction.

Proceedings to be commenced.

Ib., § 9.

SEC. 16. All proceedings before Trial Justices, in criminal cases, shall be commenced on information, under oath, plainly and substantially setting forth the offence charged, upon which, and only which, shall a warrant of arrest issue.

Information may be amended.

The information may be amended at any time before trial.

Proceedings to be summary.

All proceedings before Trial Justices shall be summary, or with only such delay as a fair and just examination of the case requires.

Offender may demand jury.

Ib., § 10.

SEC. 17. Every person arrested and brought before a Trial Justice charged with an offence within his jurisdiction shall be entitled, on demand, to a trial by jury.

In Charleston to have jurisdiction of ordinances

1870, XIV, 382, § 2.

SEC. 18. Trial Justices residing within the limits of the City of Charleston are vested with jurisdiction to try, determine and impose the penalties authorized by Ordinance of the City Council of Charleston.

May select any citizens to execute warrant of arrest.

1871, XIV, 666, § 1.

SEC. 19. Whenever a Trial Justice shall have issued a warrant for the arrest of any person charged with an offence above the grade of a misdemeanor, such Trial Justice shall be authorized to select any citizen or citizens of the County to execute the same, upon his endorsement upon the said warrant that, in his judgment, the selection of such person or persons will be conducive to the certain and speedy execution of the said warrant; and the person or persons so selected shall have all the powers now, or hereafter, conferred by law upon any Constable within this State; and any person or persons selected in the manner provided for in this Section, shall be required forthwith to proceed to execute the said warrant, and upon his willfully, negligently or carelessly failing to make the arrest, or permitting the party to escape after arrest, he or they shall be punished, upon conviction, on indictment, by fine and imprisonment in the County jail, in the discretion of the Judge before whom the indictment may be tried; said imprisonment not to be less than six months.

Proceedings in cases of felony.

1839, XI, 23, 10.

SEC. 20. It shall not be necessary for any Trial Justice, when any prisoner is produced before him for commitment or bail, on charge of a felony, to examine such prisoner, and those that bring him; such Justice may take the examination of any witness in behalf of the State, in the presence of the prisoner, allowing such prisoner the right of cross-examination, and reduce the testimony so taken to writing, read the same over to the witness, and require him to subscribe; and the Trial Justice shall return testimony thus taken to the office of the Clerk of Court of General Sessions.

Recognizance of witnesses.
1839, XI, 22, § 8.

SEC. 21. Upon information made of the materiality of any witness within the State, to support any accusation made, or where the materiality of such witness shall be within the knowledge of any Trial Justice, he shall issue his warrant, requiring such witness to appear before him or the next Trial Justice, to enter into recognizance, with good security, if deemed proper, which warrant shall authorize the arrest and detention of any such witness, in any County in the State; and on being brought before such Trial Justice, and refusing to enter into recognizance, such witness may be committed by the said Trial Justice; and the accused shall, in felonies, and no other case, have the like process to compel the attendance of any witness in his behalf, as is granted or permitted on the part of the State: *Provided*, That no Trial Justice shall receive any fees for issuing more than one warrant for witnesses, on the part of the State, or upon the part of the accused, in the same case, unless, on the second or other application, oath shall be made that the prosecutor or accused was not aware, at the issuing of the previous warrant, of the materiality of such witness.

May arrest and bind over material witnesses for the State.

For accused in felonies.

Fees allowed for but one warrant.

May command the peace and arrest all who refuse obedience, or who commit any crime in his view.
Ib., 21, § 3

SEC. 22. Any Trial Justice shall be authorized and required to command all persons who, in his view, may be engaged in violations, or disorderly conduct, to the disturbance of the peace, to desist therefrom, and to arrest any such person who shall refuse obedience to his command, and to commit to jail any such person who shall fail to enter into sufficient recognizance either to keep the peace or to answer to an indictment, as the Trial Justice may determine. In like manner, he shall arrest and commit, if necessary, any person who, in his view, shall perpetrate any crime or misdemeanor whatsoever. In making any such arrest, the Trial Justice shall have power to command any Constable, bystander, or the *posse comitatus*, as the emergency may require; and any person who shall refuse to aid in such arrest, when required by the Trial Justice, shall be liable to indictment as for a misdemeanor. Whenever there shall be an indictment for any offence committed in his view, the Trial Justice shall be the prosecutor; and he shall bind in recognizance all necessary witnesses.

May call out the *posse comitatus*.

Not to bail in capital cases.
Ib., 22, § 6.

SEC. 23. No Trial Justice shall let to bail any person charged with any offence, the punishment of which is death, but if it shall clearly appear, upon an examination, that the charge is not founded in probability, the party may be discharged.

To arrest persons who are about to leave State to fight duels, and bind over to keep the peace.
1857, XII, 606.

SEC. 24. That whenever any Trial Justice shall receive information in writing, and under oath, that any person or persons are about to leave this State for the purpose of sending or receiving a challenge to fight a duel, or for the purpose of fighting a duel after such challenge shall have been sent or received, it shall be the duty of such Trial Justice forthwith, to issue his warrant for the arrest of such person or persons, to be carried before some Trial Justice, who shall require such persons to enter into recognizance in such sum as to such Trial Justice may seem meet, con-

ditioned that such person or persons shall keep the peace within this State, and shall not leave the State for the purpose of sending or receiving a challenge to fight a duel, or for the purpose of fighting a duel after such challenge has been sent or received.

Civil Jurisdiction.

How tenants holding over may be removed.

1812, V, 676, § 1; 18.7, VI, 67; 1839, XI, 31, § 23

SEC. 25. On the determination of any lease, in writing or by parol, of any lands and tenements, within this State, when the lessee shall hold over thereafter, any two Trial Justices, in the County where the same may be situated, are authorized and required, on the complaint and due proof thereof by any lessor, his heirs or assigns, to place the names of twenty-four neighboring freeholders in a box, and from them draw the names of eighteen, and shall thereupon issue their warrant, in the nature of a summons, directed to the Sheriff, or any Constable of the County, commanding such officer to summon the said eighteen freeholders to attend at a certain time, within four days, and at a place appointed, and from the said eighteen freeholders so summoned twelve shall be drawn in the same manner, who shall be empannelled to try the facts: *Provided*, That if from the said eighteen so summoned the number of twelve cannot, from any cause, be had, the Trial Justices are authorized to complete the number from the remainder originally selected. And the said Trial Justices shall also summon the said lessee, or any other person claiming or coming into possession under him, at the same time, and in the same way, likewise to appear before them, to show cause, if any, such lessee or other person may have, why possession of the premises should not be forthwith restored to such lessor, his heirs or assigns; and if, upon hearing the case, the jury shall be satisfied that the complainant is entitled to the possession of the premises in question, they shall so find, whereof the Justices shall make a record, and shall thereupon issue their warrant, directed to the Sheriff of the County wherein the lands are situated, commanding him forthwith to deliver to such lessor, his heirs or assigns, full possession of the premises, and to levy all expenses incurred of the goods and chattels of the lessee, or the person in possession as aforesaid.

Proceedings in case of forcible entry and detainer.

1829, VI, 388, 17. 2 Hill. 367; Bennet & Chitty *ads* State, 1 Rice's Dig, 340.

SEC. 26. That the forms and proceedings before Trial Justices, as cases of forcible entry and detainer, shall be the same as are prescribed by law in cases where tenants hold over, after the expiration of their leases.

May eject tenants at expiration of contracts Method of proceeding.

1866, XIII, 416, § 1.

SEC. 27. That when any person or persons have gone, or shall hereafter go, into possession of any land or tenements of another, either as a tenant at will, or under a contract to serve another, either as a domestic servant or common laborer, or otherwise, and shall refuse or neglect to quit the premises so occupied, when required by the person letting the same, or upon the termination of the contract, either by its own limitation or from any other cause, it shall be lawful for the person letting the

premises to apply to any Trial Justice, whose duty it shall be to have a notice served upon the person or persons so refusing to quit, to show cause before him, at the expiration of ten days from the personal service of such notice, why he should not be ejected, and if no sufficient cause be then shown, it shall be the duty of the Trial Justice forthwith to issue his warrant, directed to the Sheriff or any Constable, requiring him, without delay, to eject such person or persons from the premises so let, and authorizing him to use such force as may be necessary.

To serve notice on trespassers, and, on their failure, to eject them by force

SEC. 28. That if any person shall have gone into, or shall hereafter go into possession of any lands or tenements of another, without his consent, or without warrant of law, it shall be lawful for the owner of the land so trespassed upon to apply to any Trial Justice to serve a notice on such trespasser to quit the premises, and if, after the expiration of five days from the personal service of such notice, such trespasser refuses or neglects to quit, it shall then be the duty of such Trial Justice to issue his warrant to any Sheriff or Constable, requiring him forthwith to eject such trespasser, using such force as may be necessary: *Provided, however*, That if the person in possession shall, before the expiration of the said five days, appear before such Trial Justice, and satisfy him that he has a color of claim to the possession of such premises, and enter into bond to the person claiming the land, with good and sufficient security, to be approved by the Trial Justice, conditioned for the payment of all such costs and expenses as the person claiming to be the owner of the land may incur in the successful establishment of his claim, by any of the modes of proceeding provided by law, the said Trial Justice shall not issue his warrant as aforesaid.

Proviso.
1866, XIII, 408, § 1.

Fees of Trial Justices.
Fees of Sheriff or Constables.
Ib., 409, § 2.

SEC. 29. The Trial Justice shall be entitled to demand and receive from the person applying for the warrant provided for in the two preceding Sections, a fee of five dollars before issuing the same, and the Sheriff or Constable shall, in like manner, be entitled to demand and receive a fee of five dollars and mileage before executing such warrant, from the person applying for the same.

Courts of Trial Justices.

Parties entitled to a trial by jury.
1868, XIV, 100, § 5.

SEC. 30. Either party to a suit before a Trial Justice shall be entitled to a trial by jury.

Selection of juries.
Ib., § 6.

SEC. 31. In civil cases, the parties may agree on a jury; but when they do not agree, and also in criminal causes, a jury shall be selected in the following manner: The Sheriff, Constable, or other officer appointed by the Trial Justice, shall write and fold up eighteen ballots, each containing the name of a respectable voter of the vicinity; he shall deliver the ballots to the Trial Justice, who shall put them into a box, and shake them together, and the officer shall draw out one, and the person so drawn shall be one of the jury, unless challenged by either party; and the officer shall thus proceed until he shall have drawn six, who shall

not be challenged; but if the first twelve shall be challenged, and the parties do not agree to a choice, the last six shall bé the jury; and when any of the six jurors so drawn cannot be had, or are disqualified by law to act in such case, and the parties do not supply the vacancy by agreement, the officer shall proceed to prepare, in the manner before directed, ballots for three times the number thus deficient, which shall be disposed of and drawn as above provided.

Penalty on delinquent jurors.
Ib., § 7.

SEC. 32. If any juror so summoned shall neglect or refuse to appear, in obedience to such *venire*, and shall not, within forty-eight hours, render to the Trial Justice who issued the *venire* a sufficient reason for his delinquency, he shall forfeit and pay a fine of two dollars to the Treasury of the County where the cause is tried, to be assessed by such Trial Justice, and collected on his warrant, without other process.

May punish for contempt. Punishment.
1839, XI, 27, § 16.
2 Bay., 1—385.

SEC. 33. Every Trial Justice shall have power to enforce the observance of decorum in his Court while holding the same; and, for that purpose, he is authorized to punish any person who shall, in the presence of the Court, offer an insult to himself or a juror, or who shall be willfully guilty of any undue disturbance of his proceedings while sitting officially, as for a contempt, by fine and imprisonment, either or both, not exceeding twenty dollars fine, and twelve hours' imprisonment.

Appeal.
1870, XIV, 403, § 12.

SEC. 34. Every person convicted before a Trial Justice of any offence whatever, and sentenced, may appeal from the sentence to the next Term of the Court of General Sessions for the County. The appellant shall be committed, to abide the sentence of said Court, until he recognize to the State in such reasonable sum, and with such sureties, as the Court requires, with condition to appear at the Court appealed to, and at any subsequent Term to which the case is continued, if not previously surrendered and discharged, and so, from Term to Term, until the final decree, sentence, or order of the Court thereon; and to abide such final sentence, order or decree, and not depart without leave; and, in the meantime, to keep the peace, and be of good behavior.

General Powers and Duties.

May administer oaths.
1839, 30, § 20.

SEC. 35. Every Trial Justice shall have power to administer any oath, authorized or required by law to be taken, and not directed to be administered by another authority; and any oath so administered shall, to all intents and purposes, be binding and effectual in law.

May summon witnesses. Refusal to testify; how punished.
Ib., 29, § 19.

SEC. 36. Any Trial Justice, on the application of any party to a cause depending before him, shall have power, and is required, to issue a summons citing any person, whose testimony may be required in such cause, to appear before him at a certain time and place, not more than twenty miles from the residence of such witness, to give evidence, which summons shall be served personally, at least three days before such attendance is required; and if such person shall neglect or refuse to attend, the Trial Justice shall have power to issue a rule commanding such wit-

ness to be brought before him; or if any witness attending shall refuse to give evidence without good cause shown, the Trial Justice may commit him to the jail of the County, as for a contempt, not longer than one day, as well as fine him in an amount not exceeding ten dollars; the costs of such rule, commitment, and detention in custody, as well as in the fine so imposed, may be levied of the goods and chattels of such recusant witness, on the order of such Trial Justice, directed to any Constable of the County, as in cases of execution.

May take depositions in certain cases. Parties to have notice, &c.

Delivery, &c., of deposition. Ib.

SEC. 37. In case it shall appear to the satisfaction of any Trial Justice aforesaid, that the attendance of any witness whose testimony may be required in any case before him cannot be had, by reason of extreme age, sickness, or infirmity, or of indispensable absence on public official duty, or in consequence of intended removal from the State before the cause can be otherwise ready for trial, or where such witness may be resident in another County, or without the limits of the State, to take the examination of such witness in writing, or cause the same to be done by another Trial Justice, to be used in evidence on the trial of the case: *Provided*, That the parties to such cause shall have notice thereof in time to be present, if they or either should choose to be present: *Provided, also*, That when such examination is so made by another, it shall be sealed up, with the title of the case endorsed, and conveyed by a disinterested person to the Trial Justice authorizing the same.

May allow bail; take renunciations of dower, releases of inheritance. 1839, XI, 30, § 21.

SEC. 38. Any Trial Justice is authorized and required to give, on proper affidavit, an order for reasonable bail, in any action wherein bail may be proper, but not, of course, at the time of commencing, or during the pendency thereof, in any Court of Common Pleas in the County where such Trial Justice resides. He may also take releases of inheritance and renunciations of dower.

Act as Coroner in certain cases. Ib., 33, § 29.

SEC. 39. Any Trial Justice of the County is authorized and required to exercise all the powers, and discharge all the duties of the Coroner, in holding inquests over the bodies of deceased persons, and taking all proper proceedings therein, according to the laws of force, in all cases where the Coroner of the County may be sick, or absent, or at a greater distance than fifteen miles from the proper place for such inquiry, or where the office is vacant.

Two Trial Justices to grant writs of *habeas corpus*; penalty for refusal in proper cases. 1772, II, 400, § 1; 1839, XI, 23, § 9. 2 Bail., 252

SEC. 40. Any two Trial Justices are authorized and required to grant the writ of *habeas corpus* as fully, effectually and lawfully as may any Judge of the Court of Common Pleas and General Sessions or Judge of the Supreme Court of this State; and if any Trial Justice shall willfully refuse, neglect, or omit to grant the writ of *habeas corpus* to any person or persons requesting or demanding the same, who shall be legally entitled to request or demand the same, he shall forfeit, for said default, the sum of five hundred dollars.

To keep record books for civil and criminal cases.
Ib., 22, § 5.

SEC. 41. Each Trial Justice shall keep two books, the one for civil, the other for criminal cases, wherein he shall insert all his proceedings in each case by its title, showing the commencement, progress and termination thereof, as well as all fees charged or received by him; and shall produce the same when required for the inspection of the Solicitor of the Circuit; and at the expiration of his term of office he shall deposit the same in the Clerk's office for the County for which he was appointed.

To return all papers pertaining to the Court of Sessions to the Clerk.
Ib., 23, § 11.

SEC. 42. All papers pertaining to the Court of Sessions shall be returned by each Trial Justice to the Clerk, at least ten days before the ensuing term of said Court, except such as may have been issued or received by him subsequent to that time, which shall be returned on the first day of the term, under the penalties in the following Section prescribed; and every such paper shall be of a size not less than half a sheet of foolscap, folded in the manner that writs are when issued, and shall be endorsed legibly with the title of the case, nature of the offence, kind of proceeding, and the Trial Justice's name.

Penalty for neglect.
Ib., 1836, VI, 552, § 1.

SEC. 43. On their failure to return such papers to the Clerk, as directed in the preceeding Section, they shall not receive any fee or compensation for issuing or taking the same, unless it shall appear that the offence was committed or the information made subsequent to such day, or by the return of the Sheriff, Constable or other officer executing such warrant or other process, to be made on oath that the same could not be executed by him in time therefor; and they shall be subject to the payment of a fine of five dollars for every such default, within the discretion of the Court, to which a rule thereof shall be made returnable.

Fines and penalties to be forthwith turned over to the County Treasurers.
1871, XIV, 655, § 1.

SEC. 44. That all fines and penalties imposed and collected by Trial Justices in criminal causes shall be forthwith turned over by them to the County Treasurers of their respective Counties, for County purposes: *Provided*, That when, by law, any person or persons is or are entitled, as informer or informers, to any portion of the fine or penalty imposed and collected, the same shall be immediately paid over to him or them.

Failure to pay over fines: how punished.
Ib., 656, § 3.

SEC. 45. If any Trial Justice shall neglect or refuse to immediately pay over any and all fines and penalties collected by him in any criminal cause or proceeding, he shall, on conviction thereof, be subject to a fine of not less than one hundred nor more than one thousand dollars, and imprisonment not less than three nor more than six months, and shall be dismissed from office, and disqualified from holding any office of trust and profit under the State of South Carolina.

May arrest for offences against the United States.

Process returnable to Clerk of U. S. Court.

SEC. 46. Any Trial Justice, according to the established forms of proceeding for offences against this State, (at the expense of the United States, and to be tried by such Court of the United States as may have cognizance of the offence,) may order the arrest, imprisonment or bail of a person charged with a crime or offence against the United States, alleged to have been committed within this State: and a copy of the process shall be returned as speedily as may be into the office of the Clerk of

such Court, together with the recognizances of the witnesses for their appearance to testify in the case, which recognizances any Trial Justice may require, on pain of imprisonment; and if such offender be committed within a County in which the offence cannot be tried, the Trial Justice ordering the arrest shall issue his warrant for the removal of the offender and witnesses to the proper County.

Offender to be removed to proper County.
1840, XI, 25, § 14.
Act of Congress, Sept. 24, 1789, Chap. 20, § 33.
1 Brightly's Digest, 90, § 1.

SEC. 47. The fees which Trial Justices shall be authorized to receive in the several cases herein specified shall be as follows: Oath and warrant, in any criminal case, fifty cents; each recognizance, fifty cents; commitment and release, each fifty cents; administering and certifying oath in writing, other than above, fifty cents; issuing writ of *habeas corpus* to two Justices jointly, two dollars; issuing summons and copy for defendant in civil cases, sixty cents; issuing summons for witness in any civil case, fifty cents; taking examination of witness in writing in any case, as prescribed by law, one dollar; for giving judgment on hearing litigated case, fifty cents; for giving judgment in case not defended, fifty cents; for issuing execution, or renewal of the same, fifty cents; report of case and taking bond to appeal, one dollar and fifty cents; for issuing attachment returnable to Court or Justice, including all notices, one dollar and fifty cents; for filing return of garnishee and order thereon, twenty-five cents; for proceedings in case of ejectment, five dollars; for approval of indentures of apprentices or servants, one dollar; for proceedings on Coroner's inquest, as prescribed by law, ten dollars; for proceedings on estray of horse or mule, one dollar; for proceedings on all other estrays, fifty cents; for taking and certifying renunciation of dower or inheritance, two dollars; for granting order for special bail, one dollar; for trial of any criminal case or misdemeanor, three dollars; for administering oath, twenty-five cents; for administering oath on affidavit, fifty cents; proceedings in case of bastardy, inclusive, five dollars.

Fees of
1870, XIV, 385, § 2.

SEC. 48. Trial Justices shall be entitled to the same fees for issuing rules against Constables, and hearing the return thereto, as they are allowed by law for issuing a summons and trying a small and mean cause.

Fees for rule against Constables.
1840, XI, 361, § 3

SEC. 49. No account of a Trial Justice, for fees, in any criminal cause, shall be paid, unless he shall declare, on oath, that the costs in the said cause have not been recovered of the defendant, and that he, the defendant, was unable to pay the same; and, further, that all fines and penalties theretofore collected by such Trial Justice have been faithfully and fully paid over to the County Treasurer of the County.

Accounts paid only upon oath that costs cannot be collected of defendants, and that fines, &c., have been paid to County Treasurer.
1871, XIV, 655, § 2.

SEC. 50. If any Trial Justice shall charge any other fees or for any other services than herein allowed by law, he shall be liable to forfeit to the party injured ten times the amount of excess of fees so improperly charged, to be recovered by suit in the Court of Common Pleas.

Penalty for unauthorized charge. How recovered.
1840, XI, 151, § 8.

CHAPTER XXVI.

Of Constables.

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16. Liability for unauthorized charge.

How chosen; term of office. Where to reside.
New. Const., Art. IV, § 21.

Section 1. Constables shall be chosen in each County by the qualified electors thereof, in such manner as the General Assembly shall direct, for the term of two years. They shall reside in the County, city or beat for which they are elected.

How to qualify.
1839, XI, 80, §§ 2—3.

Sec. 2. When any person shall be elected to the office of Constable, he shall repair to the Clerk's office of the County, and, together with the evidence of his election, he shall lodge his bond, in the form prescribed by law, in the penalty of five hundred dollars, with good sureties, not less than two, nor more than five, to be approved in writing by the Clerk; and, upon taking the oaths herein prescribed, such person shall be entitled to a certificate from the Clerk that he has filed his bond, and taken the requisite oaths, and shall thenceforth be regarded as a regularly qualified Constable; nor shall any person, not so qualified, exercise the powers of a Constable: *Provided*, That nothing herein contained shall prevent a presiding Judge or a Trial Justice from appointing a Constable to act by virtue of such appointment, only on a particular occasion, to be specified in writing.

Oaths.
Ib. 1829, VI, 384, § 4.

Sec. 3. Every Constable shall, before receiving the certificate in the last Section provided for, take the following oaths: The oath prescribed by the Constitution for civil officers, the oath against gaming, and the following: "I, A. B., swear (or affirm, as the case may be,) that I am under no promise, in honor or law, to share the profits of the office to which I have been elected (or appointed, as the case may be,) and I will not, directly or indirectly, sell or dispose of said office, or the profits thereof; but will resign, or continue to discharge the duties thereof, during the period fixed by law, if I so long live: So help me God."

To act throughout County.
1839, XI, 80, § 4.

Sec. 4. Every qualified Constable shall be entitled to exercise his office throughout the County in which he may be elected or appointed.

SEC. 5. A Constable is authorized, and he shall be bound faithfully and promptly:

1. To execute all processes lawfully directed to him by competent authority;

To execute all processes legally directed to him.

2. To make return, on oath, to the person issuing the process, to be endorsed in writing on the same, of his proceedings by virtue of it;

To make return.

3. In every case where he may levy an execution, or serve an attachment on personalty, he shall specify, by endorsement on the execution or attachment, or by schedule thereunto annexed, a list of every article so levied on or attached, and forthwith lodge a copy of such list with the person issuing the process under which he acts. In all cases of sale by a Constable, he shall give ten days' notice, by advertisement at two of the most public places in the neighborhood, of the time and place of sales. And in default of paying over the amount of any debt collected, to the party entitled, or his lawful agent, or to the Trial Justice, upon demand, or in default of returning to the defendant, upon demand, any overplus which may be in the hands of the Constable, he shall be liable to pay, in either case, to the party in interest and entitled to receive, the original sum, and interest thereon, at the rate of ten per centum per month, recoverable before a Trial Justice, if not more than one hundred dollars in amount, if greater, before the Court of Common Pleas, besides being liable to be indicted and punished as for a misdemeanor.

Executions and attachment.

Schedule.

Sales.

Advertisement.

Payment

Penalty for default

How recorded.

Punishment.

Ib., § 5.

Code of Procedure, §§ 256, 330, 317.

1 Hill, 286; Ib., 277; Dudley, 557; 3 Strob., 313; 3 Rich., 62; 12 Rich., 145; Ib., 251.

SEC. 6. Every Constable shall be bound to execute, when required, every lawful order, judgment and determination of the Trial Justice, and of any Trial Justice's Court; and for disobedience herein he shall be liable to be indicted and punished as for a high misdemeanor.

To execute process of Trial Justice Court.

Penalty for disobedience.

Ib., 81, § 6.

SEC. 7. For oppression in office, whether by undue personal violence, cruelty, taking an amount of property in unreasonable proportion to the sum to be collected, or for any willful official misconduct, habitual negligence, habitual drunkenness, or fraud, when established to the satisfaction of a jury, upon indictment, a Constable shall be punished by imprisonment not exceeding one year, and fine not exceeding one thousand dollars, at the discretion of the Court, besides being liable to an action by the party aggrieved; but if any such action for damages shall be instituted against a Constable, and the plaintiff fails, he shall be liable to be mulcted in double or treble costs, by order and at the discretion of the presiding Judge.

Fine and imprisonment

Liability to party aggrieved.

Costs.

Ib., § 7.

2 Spears, 27.

SEC. 8. Upon the conviction of any Constable by indictment, the Judge before whom the case may be tried shall have power, by order, to declare the convict to be removed from office, whereupon his office shall be deemed vacant.

Office vacant on conviction

Ib., § 8.

2 Spears, 27.

To attend Circuit Courts when required.
Ib., § 9.
1846, VI, 29, § 2.

SEC. 9. All or so many of the Constables of any County as may be thereto required by the Sheriff shall be bound to attend any of the Circuit Courts, shall be officers of Court, and perform the appropriate duties and services assigned them by the Sheriff and presiding Judge; and each Constable so attending shall be entitled to receive the compensation of one dollar and fifty cents for each day's attendance.

To arrest for disturbances of the peace and crimes committed in his view.
May call out *posse comitatus*.
Refusal to obey his summons, misdemeanor.
1839, XI, 2, § 10.

SEC. 10. Every Constable shall be a conservator of the peace, shall take into custody and carry before the nearest Trial Justice, any person or persons, who may be, in his view, engaged in riotous conduct, or open violation of the peace, and refuse, upon his command, to desist therefrom; and, also, any person who may, in his view, commit any felony or misdemeanor; and for the purpose of preserving the peace, and, also, executing any criminal process, every Constable shall have the power of ordering out such *posse comitatus* to his assistance as may be necessary to enable him to discharge his duty; and any person refusing to obey his summons shall be liable to indictment and punishment as for a misdemeanor.

Process, how served.
Ib., § 11.

SEC. 11. The service, by a Constable, of all process in the nature of a notice for personal appearance, shall be by delivering to the party a copy of the same, or by leaving the same at his most notorious place of residence.

To return execution within sixty days.
1846, XI, 30, § 7.
Code of Procedure, § 91, ¶ 12.

SEC. 12. It shall be the duty of every Constable, with whom an execution is lodged for collection, to proceed forthwith to execute the same, according to its exigency, unless ordered by the party in whose favor the same was issued to wait; and every execution shall be returned to the Trial Justice by whom it was issued, within sixty days from the date, and the Constable making such return shall set forth the full execution thereof, or the reasons for his failure.

Liability for neglect to enforce or return executions.
Ib., § 2.

SEC. 13. When any Constable fails to do his duty in the enforcement or return of an execution, the party in whose favor the same may have been issued may apply to any Trial Justice for a rule against such defaulting Constable, requiring him to show cause, after the expiration of two days from the service of such rule, why the execution has not been enforced or returned, and on his failing to show cause sufficient, the said Justice may order the same to be made absolute, and the Constable shall be liable for the debt, interest and costs; and if he be unable to pay the same, such liability shall be construed a breach of his official bond, and the same shall be recoverable in an action thereon against his securities.

Debt recoverable of sureties.

Shall forfeit fees and be subject to fine of $5 for delay in returning warrants, &c., of Trial Justices.
1838, VI, 552, §§ 1, 2.

SEC. 14. That in all cases in which Trial Justices shall fail to lodge in the offices of the Clerks of Court of their respective Counties recognizances taken before them for the appearance of witnesses, defendants, or prosecutors before the Court of General Sessions for such County, or informations or other papers made before them, and returnable to such

Court, at least ten days before the meeting of said Court, and such default shall arise from the neglect or improper delay of the Constable or other officer charged with the execution of any warrant or other process pertaining to the Court of General Sessions, such Constable shall forfeit his fees and be subject to a fine of five dollars for every such default, if, upon a rule to show cause, he shall fail to excuse himself to the satisfaction of the Court.

Fees. 1870, XIV, 300, § 7.

SEC. 15. The fees of Constables shall be as follows: For summoning witness, in civil case, fifty cents; for serving summons, rule or notice in any civil case, fifty cents; for serving attachment on each person, one dollar; for levying execution, posting advertisements of sale, and paying over proceeds, besides commission of three per cent. on amount collected, to be paid by the defendant in execution, fifty cents; for every day in search of stolen goods, to be paid by complainant, two dollars; for serving a warrant in any State case, one dollar; for selling any estray, five per centum of the proceeds, and in all cases for all actual and necessary travel one way, to be certified by the officer on the back of the process, in writing, five cents per mile; for all neceseary service in case of ejectment, as well before as after judgment, five dollars; for summoning Coroner's Jury, and witnesses, to be paid by the County, three dollars; for transportation of prisoners to County jail, ten cents per mile, to be paid by the County.

Liability for unauthorized charges 1840, XI, 151, § 8.

SEC. 16. If any Constable shall charge any other fees, or for any other service than herein allowed, such Constable shall be liable to forfeit to the party injured ten times the amount of excess of fees so improperly charged, to be recovered by suit in the Court of Common Pleas.

CHAPTER XXVII.

OF THE CENSUS.

SEC.
1. Governor to appoint an Enumerator in each County. Enumerator authorized to appoint assistants; proviso.
2. Enumerator and assistants to take an oath. Certificate of oath must accompany census return.
3. Duties of Census Takers.
4. Members of families required to give information under oath. Penalty.
5. Returns to be deposited with County Auditor under seal.
6. Endorsement of package. County to be divided into census districts. Blanks and instructions. Returns to be forwarded to Commissioner of Agricultural Statistics.
7. Commissioner to prepare books, &c; report results to Governor, and make return to General Assembly.
8. If Census Takers fail to comply with census law, Governor to have census taken.
9. Pay of Census Takers; Commissioner may employ assistance to make census returns.

Governor to appoint Enumerators. Enumerator to appoint assistants.

SECTION 1. That the Governor be authorized and required to appoint one person in each County of the State, who shall be charged with taking the census, and who shall be authorized to appoint such assistants

Proviso. 1869, XIV, 229, § 1; Con., Art., II, § 4, 5.

as may be necessary: *Provided*, That the number of assistants shall not exceed four in each County, except in the County of Charleston, in which County the number of assistants shall not exceed six.

Enumerator to take oath. Ib., § 2.

Certificate of oath to accompany return.

SEC. 2. That each and every person so appointed to take the census shall, before entering on the duties of his office, take, before some Trial Justice, the following oath, to wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that I will honestly, faithfully and impartially take a correct census of all the inhabitants residing within the portion of the County to which I have been appointed as Census Taker, and will, in all respects, truly perform all the duties with which I am charged: So help me God." And a certificate from the Trial Justice who shall administer the said oath that the same has been duly taken before him shall accompany and be delivered with each and every return of the census.

Duties of Census Taker. Ib., § 3.

SEC. 3. That it shall be the duty of each and every person appointed to take the census, to call personally on the head or some member of each family in the County, or portion of the County for which he or they shall have been appointed, and obtain from such head of a family or member thereof, as aforesaid, the number of persons contained in such family, and such other information as may be required and directed by the Commissioner of the Bureau of Agricultural Statistics.

Members of families to give information under oath. Ib., § 4.

Penalty.

SEC. 4. That each head or member of a family shall, when called on by the persons appointed to take the census, at his, her, or their residence or place of business, make, on oath or affirmation, a correct return of all persons of whom his or her family is composed, and also report such other information to said Census Takers as may be required by law; and the persons so appointed to take the census are hereby authorized to administer such oaths; and upon the failure of any person to make such returns or reports, when required, he or she shall be subject to a penalty of twenty-five dollars, to be recovered in any Court of competent jurisdiction.

Returns to be deposited with County Auditor under seal. Ib., § 5.

Endorsement of package.

SEC. 5. That upon the completion of such returns and reports, each Census Taker shall deposit the same, in a sealed package, with the Auditor of his County, accompanied by a certificate, to be endorsed by some Trial Justice, purporting that the following oath had been duly taken by such Census Taker previous to the delivery of such package to said Auditor, to wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that this packet contains a just, true, correct and impartial return of all the inhabitants of the census district to which I have been appointed, and a faithful report of such information as was required by the Commissioner of the Bureau of Agricultural Statistics, so far as it was practicable to obtain the same: So help me God."

SEC. 6. That it shall be the duty of the Census Takers for the County, under the direction of the Commissioner of the Bureau of Agricultural Statistics, to divide their several Counties into convenient districts for taking the census, to distribute blanks, books and instructions to the Census Takers, to receive their returns when completed, and forward the same by the first day of November to the Commissioner of the Bureau of Agricultural Statistics, and to render such further assistance to said Commissioner in the premises as that officer may direct.

County to be divided into Census Districts; blanks and instructions.

Ib., § 6.

Returns to be forwarded to Commissioner of Agricultural Statistics.

SEC. 7. That it shall be the duty of the Commissioner of the Bureau of Agricultural Statistics to have prepared, on or before the fifteenth day of April, 1875, and on the same day every tenth year thereafter, suitable books, blanks and instructions to facilitate the registration provided for herein, and the collection of such statistical information as said Commissioner may deem of sufficient importance to the people of this State; and when the Census Takers shall have made the returns hereinbefore provided for, the said Commissioner shall forthwith report the results of such registration to the Governor of the State for the time being, and shall make a collated return of the statistics to the General Assembly at its next regular session.

Commissioner to prepare books, &c.; report results to Governor, and make return to General Assembly.

Ib., § 7.

SEC. 8. That the Governor of the State, for the time being, shall, immediately after receiving from the Commissioner of the Bureau of Agricultural Statistics the said report, examine the same, and, in case it shall appear to him that any person or persons appointed to take the census as aforesaid shall in anywise have failed to comply with the duties imposed on him or them, either in taking the census or in making returns, he shall forthwith cause the same to be taken and returned wherever such defaults shall have been made.

If Census Taker fails to comply with census law, the Governor to have census taken.

Ib., § 8.

SEC. 9. That the Census Taker employed in taking the census shall be entitled to receive, as compensation for his services, the sum of five dollars per day, and his assistants four dollars per day, while actually employed, and no more. Such compensation shall be paid monthly out of any moneys in the Treasury not otherwise appropriated, upon warrants to be drawn by the Comptroller General whenever he shall have received satisfactory proof that the services of the claimant have been faithfully rendered. And the Commissioner of Agricultural Statistics is hereby authorized to employ clerical service to assist him in collating and making his returns, such service to be paid for out of the contingent fund of the Bureau of Agricultural Statistics, and not to exceed the sum of three hundred dollars.

Pay of Census Takers.

Ib., § 9.

Commissioner may employ assistants in making returns.

TITLE VII.

CHAPTER XXVIII.

General Provisions Relating to Public Officers.

SEC.

Sales of Public Offices.

1. Penalty for selling offices.
2. Sales, &c., of offices void.
3. Official acts, performed after offence but before removal, valid.

Bonds of Public Officers.

4. Form of bond to be given by all public officers.
5. Comptroller General to have blank forms of bonds printed and distributed to Counties.
6. Clerk to receive blanks and give to officers.
7. Place of deposit of bonds of State officers.
8. Bonds to be examined by Comptroller General, Secretary of State and Treasurer.
9. Certain bonds to be examined by Governor.
10. Bonds of County officers to be recorded.
11. Bonds of public officers may be sued on, and certified copy used in evidence; provision as to County officers.
12. Sureties not to exceed twenty; sufficiency of obligors to be regarded in the aggregate.
13. May be referred to Attorney General in certain cases.

Additional Oath.

14. Officers to take additional oath not to share profits of office.

Sales of Public Offices.

Penalty for selling offices. 1737, III, 468, § 1.

SECTION 1. That if any person or persons bargain for the purchase or sale of, or sell, any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive, have or take any money, fee, reward or any other profit, directly or indirectly, or take any promise, agreement, covenant, bond, or any assurance, to receive or have any money, fee, reward or other profit, directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or to the intent that any person should have, exercise or enjoy any office or offices, or the deputation of any office or offices, or any part of any of them, which office or offices, or any part or parcel of them, shall in anywise touch or concern the administration or execution of justice, or the receipt, control or payment of any public treasure, money, rent, revenue, account, auditorship, or surveying of any public lands, tenements, woods or hereditaments, or which shall touch or concern any clerkship to be occupied in any Court of record wherein justice is to be ministered, every such person or persons shall not only lose and forfeit all right and interest in or to any of the said office or offices, deputation or deputations, or any part of any of them, but shall immediately, by and upon the same fee, money or reward given or paid, or upon any such promise, covenant, bond or agreement, had or made for any fee, sum of money or reward, to be paid as aforesaid, be adjudged a disabled person in the law, to all intents and purposes, to have, occupy or enjoy the said office or offices, deputation or deputations, or any part of any of them, for the which any such person or persons shall so give or pay any sum of money, fee or reward, or make any promise, covenant, bond or other assurance to give or pay any sum of money, fee or reward.

Sales, &c., of offices void.
Ib., § 2.

SEC. 2. That every bargain, sale, promise, bond, agreement, covenant and assurance, as before specified, shall be void to and against him and them by whom any such bargain, sale, bond, promise, covenant or assurance shall be had or made.

Official acts perfomed after offence, but before removal, valid.
Ib.

SEC. 3. That if any person or persons shall offend in anything contrary to the tenor and effect of Section 1 of this Chapter, yet, notwithstanding, all judgments given, and all other act and acts executed or done by any such person or persons so offending, by authority or color of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be and remain good and sufficient in law to all intents, constructions and purposes.

Bonds of Public Officers.

Form of bond to be given by all public officers
1829, VI, 383, § 1. (See 1795, V, 258, § 2.)
2 Bail., 362.

SEC. 4. That the bond given by any person elected or appointed to any office for which bond is required, shall be of the form following:

"STATE OF SOUTH CAROLINA.

"Know all men by these presents, that we (here insert the names of the person and his sureties) are held and firmly bound unto the State of South Carolina, in the penal sum of (insert the amount required by law) dollars, to the payment of which, well and truly to be made, we bind ourselves, and each and every of us, our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this (insert the day) day of (insert the month) Anno Domini one thousand eight hundred and (insert the year) and in the (insert the year) year of the Independence of the United States of America.

"Whereas, the above bound (insert the name of the person appointed or elected) hath been appointed, (or elected, as the case may be,) to the office of (insert the office.)

"Now, the condition of the above obligation is such, that if the above bound (insert the name of the person appointed or elected) shall well and truly perform the duties of said office, as now or hereafter required by law, during the whole period he may continue in said office, then the above obligation to be void and of none effect, or else to remain in full force and virtue.

"_____ _____, [L. S.]

"Sealed and delivered, in presence of:

"[Here place names of witnesses.]"

Comptroller General to have blank forms of bonds printed and distributed to Counties.
Ib., 384, § 2.

SEC. 5. It shall be the duty of the Comptroller General to ascertain the number of officers in this State from whom bonds are required, and to cause an equal number of said bonds to be printed annually, at the expense of the State, having thereon the blank forms for the proper officers to approve securities, and for probate; and to distribute to

each County, annually, a number of said bonds equal to the number of officers from whom bonds are required in said County respectively.

Clerk to receive them.
Ib., § 3.

SEC. 6. It shall be the duty of each Clerk to receive the bonds for his County, and to deliver one to each person elected or appointed to any such office, whenever called for.

Place of deposit of bonds of State officers.
1820, VI, 147, § 3; 1866, XIII, 381, § 1.

SEC. 7. That the bonds of all State officers shall be deposited in the office of the Treasurer of the State of South Carolina.

Bonds to be examined by Comptroller, Secretary of State and Treasurer.
1866, XIII, 381, § 1.

SEC. 8. All such bonds, except those of the Comptroller General, Secretary of State and Treasurer, shall be annually examined by a Board, to consist of the Secretary of State, Comptroller General and Treasurer of the State; and if any surety in either of the aforesaid officers' bonds should die or depart permanently from the State, or if the said Board should, at the time of their examination, or at any other time, be of opinion that either of the said sureties is not worth as much, clear of debt, as his proportion of the obligation to which his name is affixed, the said Board shall cause the said public officer, whose surety has departed this life or removed from the State, or is objected to for insufficiency of estate, as aforesaid, to be notified of such exception; and the said officer shall, within thirty days after the service of such notification, procure other satisfactory surety to the said Board for such as have departed the State or died, (but shall not cancel or at all impair the original bond,) or produce satisfactory evidence to the said Board that the surety objected to as owning insufficient property, as aforesaid, is worth as much as his proportion of the said obligation, clear of debt, or else the said public officer shall procure such additional and sufficient surety or sureties as the said Board shall approve of; and in default of compliance with either of the said requisitions, within the said thirty days, the office of the said defaulting officer shall be regarded as vacant.

Certain bonds to be examined by Governor.
Ib., § 3; 1820, VI, 147, § 2. (See § 4, chap. XVI.

SEC. 9. That the bond of the Comptroller General, Secretary of State and Treasurer shall be annually examined by the Governor, and if any surety in either of the aforesaid officers' bonds should die or depart permanently from the State, or if the said Governor should, at the time of his examination, or any other time, be of opinion that either of the said sureties is not worth as much, clear of debt, as his proportion of the obligation to which his name is affixed, he, the said Governor, shall cause the said public officer whose surety has departed this life or removed from the State, or is objected to for insufficiency of estate, as aforesaid, to be notified of such exception; and the said officer shall, within thirty days after the service of such notification, procure other satisfactory surety to the said Governor for such as have departed the State or died, (but shall not cancel or at all impair the original bond,) or produce satisfactory evidence to the said Governor that the surety objected to as owning insufficient property, as aforesaid, is worth as much as his proportion

of the said obligation, clear of debt, or else the said public officer shall procure such additional and sufficient surety or sureties as the said Governor shall approve of; and in default of compliance with either of the said requisitions within the said thirty days, the office of the said defaulting officer shall be regarded as vacant.

Bonds of County officers to be recorded.
1866, XIII, 382, 4

SEC. 10. That every County officer elected or appointed, who is required to give bond for the faithful performance of the duties of his office, shall be required, within thirty days after such election or appointment, to have his said bond recorded in the office of the Register of Mesne Conveyances for the County in which such officer resides, and the Register shall keep a separate book, properly indexed, for the purpose of recording such bonds, which book shall be provided by the County Commissioners; and he shall be entitled to exact a fee from the public officer of one dollar for recording his bond.

Bonds of public officers may be sued on, and certified copy used as evidence.
1829, VI, 384, § 5; 1866, XIII, 382, § 6.
12 Rich., 286.

SEC. 11. The bond of any public officer in this State may at all times be sued on by the public, any corporation, or private person aggrieved by any misconduct of any such public officer; for which purpose the officer or officers, for the time being, with whom such bond may be filed, upon application at his or their office, shall deliver to any person applying therefor and paying the fees for doing the same, an exact and certified copy of the bond of such public officer there deposited; which copy so certified shall be good and sufficient evidence in all suits to be instituted in any Court of this State: *Provided*, That if any person be aggrieved by the default of any County officer, and desire to sue upon the bond of such officer, a certified copy of such bond from the Register of Mesne Conveyances where said bond is recorded, shall be sufficient.

Provision as to County officers.

Sureties not to exceed twenty.
1866, XIII, 469, §§ 1, 2; 1868, XIV, 19, § 1.
Sufficiency of obligors to be regarded in the aggregate.
(See Chaps. XX, § 7; XXI, § 3; XXII, § 5; XXIV, § 3.)

SEC. 12. The limit to the number of sureties allowed upon an official bond shall be not more than twenty, and in the approval or disapproval of the sufficiency of the sureties, regard shall be had only to the sufficiency in the aggregate of the obligors on such bond: *Provided*, That on the bond of Judges of Probate, Coroners, Clerks of Courts of Common Pleas, Sheriffs and County Treasurers, the number of sureties shall not exceed twelve nor be less than two.

Bonds may be referred to Attorney General in certain cases.
1868, XIV, 70, § 2.

SEC. 13. That in all cases where the County Commissioners refuse to approve the bonds of any County officers, the said officers may refer the same to the Attorney General, and, if approved by him, they shall be accepted by the County Commissioners.

Additional Oath.

Officers to take additional oath not to share profits of office.
1829, VI, 384, § 4.

SEC. 14. Each County officer, elected or appointed, shall, before entering upon the duties of his office, in addition to the other oaths required by law, take the following oath: "I, A B, swear (or affirm, as the case may be,) that I am under no promise, in honor or law, to share the profits of the office to which I have been elected, (or appointed, as the case may

be,) and I will not, directly or indirectly, sell or dispose of said office, or the profits thereof; but will resign, or continue to discharge the duties thereof during the period fixed by law, if I so long live: So help me God."

TITLE VIII.

OF PUBLIC CHARGES.

CHAPTER XXIX. *Of Paupers.*
XXX. *Of the State Orphan Asylum.*
XXXI. *Of the Estate of Dr. John De La Howe.*

CHAPTER XXIX.

OF PAUPERS.

SEC.
1. County Commissioners to provide Poor Houses and Farms.
2. To be Overseers of Poor House and Farm; to make rules; appoint Superintendent and assistants; to provide employment for inmates, &c; proviso; no cruel punishment allowed.
3. How legal settlements may be acquired: 1. Of married women. 2. Of legitimate children. 3. Of illegitimate children. 4. Of citizens generally.
4. County Commissioners to appoint Overseers of the Poor; their powers and duties.
5. County Commissioners may commit to Poor House, if Overseers neglect or refuse.
6. Overseers to care for persons of other places; expenses, how recovered.
7. To notify Overseers of proper County, and request removal.
8. How removed, if request not complied with.
9. The notice and answer may be sent by mail; proviso.
10. Penalty for importing a pauper.
11. County Commissioners may establish additional Poor Farms; proviso.
12. Charleston and Columbia may provide for their own poor, respectively.
13. Overseers to make annual return to Secretary of State; nature of the return; Secretary to furnish blanks.
14. Secretary of State to transmit abstract of returns to General Assembly.
15. Commissioners to appoint, and audit accounts of, a physician for the poor.
16. Commissioners to provide hospital accommodations; Charleston excepted; proviso.
17. Poor persons having relations able to relieve them shall have an allowance from them.
18. Commissioners to receive legacies given for the use of the poor; to prosecute for recovery.
19. Commissioners may bind out poor children as apprentices.
20. May bind out illegitimate pauper children.
21. To arrest illegitimate pauper children by warrant.
22. Moneys due on recognizances for maintenance of illegitimate children to be paid to Commissioners.
23. Commissioners may send all pauper lunatics, idiots and epileptics to Asylum.
24. Lame or impotent persons brought into the State must procure surety that they will save the County from their support.

County Commissioners to provide Poor Houses and Farms.

1870, XIV, 362, § 1.

SECTION 1. It shall be the duty of the County Commissioners of each County in this State, in pursuance of the authority conferred upon them by law, to provide, as soon as practicable, in their County, such buildings as may be needed for the accommodation of the poor of said County; said buildings shall have connected with them sufficient tillable land to give employment to such persons, able to work, as may come upon the County for support; and said buildings and land shall be known as the Poor House and Farm of said County.

SEC. 2. The County Commissioners shall, until otherwise provided by law, be Overseers of the County Poor House and Farm, and shall have power and authority to make all necessary rules and regulations for the government of the same, and to appoint a Superintendent with such assistants as may be needed. They shall also have the power, and it shall be their duty, to provide such employments as will be best suited to the inmates of the Poor House; and to see that every such poor person, able to work, is employed at some kind of labor; and to dispose of all articles manufactured, and all produce raised on said Farm, in such manner as may be most profitable: *Provided*, That the proceeds accruing from sales of produce, from rents or other sources, shall be faithfully appropriated to the support of the poor in said County: *And provided, further*, That no unusual or cruel punishment shall ever be allowed in any Poor House in this State.

To be Overseers of Poor House and Farm; make rules; appoint Superintendent and Assistant; provide employment for inmates, &c.

Ib., § 2.

Proviso.

No unusual punishment allowed.

SEC. 3. Legal settlements may be acquired in any County, so as to oblige such County to relieve and support the persons acquiring the same, in case they are poor and stand in need of relief, in the manner following, namely:

How legal settlements may be acquired.

Ib., 370, § 3.

1st. A married woman shall follow and have the settlement of her husband, if he has any within the State; otherwise, her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage.

1. Of married women.

2d. Legitimate children shall follow and have the settlement of their father, if he has any within the State, until they gain a settlement of their own; but if he has none, they shall, in like manner, follow and have the settlement of their mother, if she has any.

2. Of legitimate children.

3d. Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if she then has any within the State; but neither legitimate or illegitimate children shall gain a settlement by birth in the County where they may be born, if neither of their parents then has a settlement therein.

3. Of illegitimate children.

4th. Any person of the age of twenty-one years, being a citizen of this or any other of the United States, who has lived for three successive years in any County, and who has during that time maintained himself and family, shall be held to have acquired a legal settlement therein.

4. Of citizens generally.

SEC. 4. It shall be the duty of the County Commissioners of each County in this State to appoint, annually, one or more persons, who shall be known as the Overseers of the Poor in the County. It shall be the duty of said Overseers to look after and care for the indigent, old and infirm, and all other destitute persons within the limits of the County, and said Overseers shall have authority to send any poor person who may become a charge upon the County, to the County Poor House, subject to such conditions as may be established by the County Commissioners.

County Commissioners to appoint Overseers of the Poor.

Ib., § 4.

Their powers and duties

County Commissioners may commit to Poor House if Overseers neglect, &c.

Ib., § 5.

SEC. 5. If the Overseers of the Poor of any County shall refuse or neglect to provide for any poor person who shall ask for relief, or who shall be reported to them as needing and entitled to receive relief, it shall be the duty of the County Commissioners of said County, and they shall have the power, after investigation, either upon the complaint of the person asking relief, or upon the complaint of any resident of said County, to commit such poor person to the County Poor House.

Overseers to care for poor having settlement in other places.

Ib., § 6.

SEC. 6. The Overseers of the Poor, in their respective cities or Counties, shall provide for the immediate comfort and relief of all persons residing or found therein, having lawful settlements in other places, when they fall into distress and stand in need of immediate relief, and until they are removed to the city or County of their lawful settlement; the expenses whereof, incurred within three months next before notice is given to the place to be charged, as also of their removal, or burial, in case of their death, may be recovered by the city or County incurring the same, against the city or County liable therefor, in an action at law, to be instituted within two years after the cause of action arises, but not otherwise.

Expenses—how recovered.

To notify Overseers of proper County, and request removal.

Ib., 371, § 7.

SEC. 7. The Overseers of the Poor of any city or County may send a written notification, stating the facts relating to any person actually become chargeable thereto, to one or more of the Overseers of the city or County where his settlement is supposed to be, and requesting them to remove him, which they may do by a written order directed to any person therein designated, who may execute the same.

How removed if request is not complied with.

Ib., § 8.

SEC. 8. If such removal is not effected by the last mentioned Overseers within one month after receiving the notice, they shall, within the said one month, send to one or more of the Overseers, requesting such removal, a written answer, signed by one or more of them, stating therein their objections to the removal; and if they fail to do so, the Overseers who requested the removal may cause the pauper to be removed to the city or County of his supposed settlement by a written order, directed to any person therein designated, who may execute the same; and the Overseers of the city or County to which the pauper is so sent shall receive and provide for him; and such city or County shall be liable for the expenses of his support or removal, to be recovered in an action by the city or County incurring the same, and shall be barred from contesting the same question of settlement with the plaintiff in such action.

Notice, &c., may be sent by mail.

Ib., § 9.

SEC. 9. The notification and answer mentioned in the two preceding Sections may be sent by mail; and such notification or answer, directed to the Overseer of the Poor of the city or County intended to be so notified or answered, postage prepaid, shall be deemed a sufficient notice or answer, and shall be considered as delivered to the Overseer to whom it was directed at the time when it is received at the post office of the city or County to which it is directed, and in which the Overseer resides:

Proviso.

Provided, That said letter of notification be registered.

Sec. 10. Whoever brings into and leaves any poor and indigent person in any city or County in this State, wherein such pauper is not lawfully settled, knowing him to be poor and indigent, and with the intent to charge such city or County with his relief or support, shall forfeit a sum not exceeding one hundred dollars for each offence, to be recovered in any proper action, to the use of such city or County.

Penalty for importing a pauper. Ib., § 10.

Sec. 11. The County Commissioners shall have the power, if the convenience or necessities of their County demand it, to establish additional Poor Farms in said County: *Provided*, That when such additional Poor Farms are established, they shall be located in portions of said County where they will be most convenient to the people at large.

County Commissioners may establish additional Poor Houses. Proviso. Ib., § 1.

Sec. 12. The city authorities of Charleston and Columbia shall be allowed, and it shall be their duty, to provide for the care of the poor within the limits of their respective cities; and the County Commissioners of Charleston and Richland Counties shall, when they levy a general poor tax for their Counties, except from the payment of the same the said cities of Charleston and Columbia: *Provided*, That the aforesaid authorities of the cities of Charleston and Columbia shall have made adequate provision for the support of their poor.

Charleston and Columbia may provide for their own poor. Ib., § 12.

Sec. 13. The Overseers of the Poor of each city and County in this State shall, on or before the fifteenth day of October of each year, make and return to the Secretary of State a statement of the paupers in each city or County as they were during the year ending the thirtieth day of September preceding, which return shall contain true and correct answers to the following inquiries: What number of persons have been relieved or supported by your County (or city) during the year ending September 30th? Of those, how many have a legal settlement in your County or city? How many are foreign born? How many colored? How many white? Have you a Poor House? What number of acres of land is attached to your Poor House? What is the present estimated value of your Poor House establishment? Real estate? Personal? What number of persons have been supported in your Poor House during the whole or any part of the year? What is the average number supported in the Poor House? What is the average weekly cost of supporting each pauper in the Poor House? What number of persons have been inmates of your Poor House who are unable to perform any kind or amount of labor? What is the estimated value of all the labor performed by the poor in your Poor House? What was the kind and quantity of crops raised on the Poor Farms? The value of that sold? The estimated value of that retained for use on the Farm? How many persons, including their families, have you supported out of the Poor House during the whole or a portion of the year? What is the average weekly cost of supporting each pauper out of the Poor House? How many have you aided out of the Poor House? How many have you relieved who were insane? How many who were idiots? What number of your poor, supported at the public charge, have been

Overseers to make annual return to Secretary of State. Ib., § 13.

Nature of the return

made dependent by intemperance in themselves? What number by intemperance in those who ought to have been their supporters? What is the total net cost of supporting or relieving the poor in your County or city during the year, including interest on your Poor House establishment? How many are supported in your Poor House at the present time? How many are supported out of the Poor House at the present time? How many are assisted out of the Poor House at the present time? They shall, at the same time, make correct returns of all children in such County or city, under fourteen years of age, who are supported at the public charge, specifying therein the name, age, sex and color of each. And the Secretary of State shall furnish County Commissioners of every County, and the Overseers of the Poor of each city in the State, with blank forms of returns, which shall contain, in substance, the foregoing interrogatories.

Secretary to provide blanks.

Secretary to transmit the same to General Assembly.

Ib., 372, § 14.

SEC. 14. The Secretary of State shall, on or before the fourth Tuesday in November of each year, make out an abstract of the returns made to him, together with such explanatory remarks as he deems proper, and, through the Governor of the State, transmit the same to the Legislature.

Commissioners to appoint, and audit accounts of, physician for the poor.

Joint Resolution, XIV, 421, § 1.

SEC. 15. That the County Commissioners of the several Counties in the State are authorized, whenever, in their judgment, it is necessary, to appoint one or more physicians, whose duty it shall be to furnish medical aid to the indigent sick in their respective Counties; and whenever accounts are rendered for the performance of such duty, the County Commissioners are hereby instructed to examine said accounts, and, if found correct, to audit the same, and give a warrant on the County Treasurer for their payment.

Commissioners to provide hospital accommodations.

Ib., § 2.

Charleston excepted.

Proviso.

SEC. 16. That the County Commissioners of the respective Counties of this State are authorized and required to provide suitable hospital accommodations in connection with the Poor House at or near the County seats of their respective Counties, where the indigent sick poor may receive medical and surgical aid, free of charge, and to appoint physicians thereto, except the County of Charleston, where the County Commissioners are hereby authorized and required to cause to be built at or near Cordesville, Parish of St. John's Berkeley, a hospital for the indigent sick poor, and to appoint a physician thereto, to be paid as herein provided: *Provided*, The cost of the said building shall not exceed two thousand (2,000) dollars: *Provided, further*, That no physician, so appointed to any of the hospitals, shall charge for his services more than one-half the usual fees.

Poor persons having relations able to relieve them, such have an allowance from them.

1 Bail., 73; 2 Bail., 320.

SEC. 17. That in case any person shall be so poor as to become chargeable to the County or city wherein he has a legal settlement, which person has a father, or a grandfather, or mother, or grandmother, or child, or grandchild, of sufficient ability to relieve such poor person, it shall be lawful for the County Commissioners, upon complaint made by any

citizen of the County or city, to order some one or more, or all of such relations, to allow the poor person so much, by the week, as they shall think fitting, and in case of refusal to pay the same, it shall be lawful for any Trial Justice of the County, by his warrant under his hand and seal, directed to any of the Constables, to levy the same by distress and sale of the goods of such person or persons refusing to pay; and the several Constables, or any of them, are required and commanded to execute all such warrants.

Commissioners to receive legacies, &c, given to the use of the poor; to prosecute for recovery.

1791, V, 175, § 2. 1 Bail., 73.

SEC. 18. That the County Commissioners shall have power to demand and receive all such gifts and legacies, and all such fines and forfeitures, and any other moneys or things whatsoever, as are given to the use of the poor; and, in case of refusal to deliver or pay the same, to commence and prosecute any lawful suit or action for the recovery thereof.

Commissioners may bind out poor children as apprentices.

1712, II, 596, § 8; 1791, V, 176, § 4

2 McC., 171; 1 N. & McC, 263.

SEC. 19. That in case any poor children shall be chargeable to any County, it shall and may be lawful for the Commissioners of such County to bind any such child or children out to be an apprentice, until every male child shall arrive to the age of twenty-one years, and every female until she shall arrive unto the age of eighteen years, or be married.

May bind out illegitimate pauper children.

1712, II, 596, § 8; 1830, VI, 410, § 1; 1831, VI, 432, § 1.

1 N. & McC, 263

SEC. 20. That the County Commissioners shall have power to bind out to service illegitimate children in all cases where such children are likely to become chargeable to the County, or are liable to be demoralized by the vicious conduct and evil example of their mothers, or other persons having the charge of them; and it shall be the duty of the County Commissioners in each and every County of this State, upon information made to them that any illegitimate child, above the age of five years, is likely to become chargeable to the County, or from the vicious conduct and evil example of the mother of the said child, or other person having it in charge, is likely to become demoralized and brought up in vice and idleness, to cause such child to be bound to service, in charge of some person of good character: a female child, until she attains the age of eighteen years or marries, and a male child, until he attains the age of twenty-one years.

To arrest illegitimate pauper children by warrant.

1831, VI, 432, § 2.

SEC. 21. That upon information, as provided in Section 20, it shall be lawful for any one of the County Commissioners to issue his warrant, directed to any Sheriff or Constable, commanding him to bring any such child before the Board at the first meeting thereafter; and the said officers are hereby required to execute such warrant, and shall receive therefor the same compensation as for other arrests, to be paid by the County.

Moneys due on recognizance, &c, to be paid to Commissioners.

1830, VI, 411, § 2.

SEC. 22. That the moneys remaining due, on any recognizance given for the maintenance of any illegitimate child, at the time such child shall be bound to service, shall be paid into the hands of the County Commissioners for the benefit of such illegitimate child.

Commissioners may send pauper lunatics, &c., to Asylum.

1827, VI, [illegible], § 1; 1829, VI, 284, § 6.

SEC. 23. That the County Commissioners shall be authorized to send all pauper lunatics, idiots, and epileptics, in their several Counties, to the Lunatic Asylum.

Lame or impotent persons brought into this State must procure surety that they will save the County from their support.

1738, III, 491, § 5.

SEC. 24. When it shall happen that any passenger brought from any other State or country by the master of any ship or vessel be impotent, lame, or otherwise infirm, or likely to be a charge to the County, if such person shall refuse to give security, or cannot procure sufficient surety or sureties to become bound for his saving the city or County from such charge, in such case the master of the ship or vessel in which such person came shall be obliged and required to carry or send him or her out of this State again, within the space of three months next after their arrival, or otherwise to give security to indemnify and keep the city or County free from all charges for the relief and support of such impotent, lame, or infirm person, unless such person was before an inhabitant of this State, or that such impotence, lameness or other infirmity, befell or happened to him or her during the passage, and in such case they shall be relieved at the charge of the city or County.

CHAPTER XXX.

OF THE STATE ORPHAN ASYLUM.

SEC.
1. Shaw Orphan Asylum, in Charleston, to be State Orphan Asylum.
2. Five Trustees to be appointed by Governor and confirmed by Senate; to remain in office five years; choose a chairman and make rules.
3. To establish Asylum on permanent foundation; authority in relation to endowments.
4. May change location.
5. To have authority to purchase or lease; proviso.
6. To select employees and make rules for the government of Asylum; may bind out orphans; orphans so bound out to be educated.
7. No compensation allowed Trustees.
8. Trustees to report, annually, to General Assembly.

Shaw Orphan Asylum to be State Orphan Asylum.

1869, XIV, 173, 1.

SECTION 1. That the support and maintenance of the Orphan Asylum in the city of Charleston, known as the "Shaw Orphan Asylum," is hereby assumed by the State, and it shall hereafter be known as the State Orphan Asylum of South Carolina, and shall be open to all orphan children in the State to the extent of its capacity.

Five Trustees to be appointed by Governor.

Ib., § 2.

SEC. 2. For the purpose of carrying into effect the intention of this Chapter, the Governor of the State is authorized, by and with the advice and consent of the Senate, to appoint five Trustees, two at least of whom shall be selected from outside the city of Charleston, who shall be known as the Trustees of the State Orphan Asylum of South Carolina. Said Trustees shall remain in office four years, or until their successors are appointed, and shall have power to choose a chairman from their own number, and to make all necessary rules and by-laws for their own government.

Term of office, &c.

SEC. 3. It shall be the duty of said Trustees, and they shall have the power, to take such steps as may be necessary, and in their judgment expedient, to establish said Asylum on a permanent foundation. To this end they are hereby authorized to receive, invest and control any moneys, real estate, or other property that may be given for the aid or endowment of said Asylum, subject to any regulations now or hereafter provided by the General Assembly.

To establish Asylum on a permanent foundation.
Ib., § 3.

Authority over endowment.

SEC. 4. If, in the opinion of said Trustees, the present location of the Asylum can be changed for one better suited to the wants of said Asylum, such change may be made.

May change location.
Ib., § 4.

SEC. 5. The Trustees shall have, and are hereby invested with, authority to purchase or lease, as they may determine, such buildings, grounds, and other property, including household furniture, as may be needed for said Asylum; which property they and their successors in office shall well and truly hold in trust for the benefit of the aforesaid Asylum, and for no other purpose: *Provided*, That they shall at no time enter into any contract, or incur any obligation, binding the State for the payment of any sum in excess of the amount appropriated for the support and maintenance of said Asylum.

To have authority to purchase or lease.
Ib., § 5.

Proviso.

SEC. 6. The Trustees shall have power to select and employ such persons as may be needed to care for the wants of the orphans gathered in said Asylum. They shall also have the power to make all necessary rules and regulations for the government of the Asylum, to do all other things that may lawfully be done for the promotion of its best interests, and for the welfare of its inmates, and to bind out orphan children resident therein: *Provided*, That said Trustees shall make it, in all cases, a condition that the children so bound shall receive a good common school education, and that said Trustees shall exercise a supervisory control over such children during the continuance of their apprenticeship.

To select employees; make rules, &c.
Ib., 174, § 6; 1871, XIV, 538.

May bind out orphans.

Orphans so bound to be educated.

SEC. 7. Said Trustees shall receive no compensation for their services.

Trustees to have no pay.
1869, XIV, 274, § 8.

SEC. 8. The Trustees shall, on or before the fourth Tuesday of November in each year, report to the General Assembly, through the Governor, a detailed statement of all their doings, including the expenditure of moneys, the number, age and sex of the children, the number of admissions and deaths during the year, the number of children who have left the Asylum, and the place to which they have gone, and such other information as it may be in their power to give.

To report annually to General Assembly.
Ib., § 7.

CHAPTER XXXI.

Of the Estate of Dr. John De La Howe.

SEC.
1. Moneys belonging to De La Howe estate to be vested in Trustees; how applied.
2. Trustees to be appointed by Legislature every four years.
3. Vacancies, how to be filled.
4. Trustees declared a body corporate and politic; proviso.
5. Treasurer and Secretary to be elected.
6. Treasurer to give bond; allowed commissions.
7. Treasurer to make return annually to Judge of Probate.
8. Board to keep record, and report to Legislature.
9. May be removed by Court of Common Pleas of Abbeville County.

Moneys belonging to De La Howe Estate to be vested in trustees; how applied.
1815, VI, 14, § 1.

SECTION 1. That the moneys which have arisen, or may arise, from sales of the estate of Dr. John De La Howe, late of Abbeville, (the whole of which estate, real and personal, wheresoever and whatsoever, excepting a tract to contain fifteen hundred acres of land, to be reserved for the school, including the spot and improvements upon the plantation called Lethe, whereon the testator died, the trustees of said estate herein provided for are authorized to sell and convey,) and all other moneys belonging to, and to be collected for, the said estate, shall be vested in the said Trustees, to be applied and appropriated according to the trust and terms of the will of said Dr. John De La Howe.

Trustees to be appointed by Legislature every four years.
1825, VIII, 347, § 28; 1829, VI, 396, § 2.

SEC. 2. That a new Board of Trustees shall be appointed by Joint Resolution of both branches of the Legislature, at the session of the Legislature in eighteen hundred and seventy-three, and so, after the expiration of every four years succeeding, to continue for four years from the first Monday in April next after the appointment.

Vacancies, how filled.
1829, VI, 396, § 3.

SEC. 3. That in case of refusal to accept, death, resignation, removal from the County, or removal from the trust, of any of the Trustees of the said estate, or any of their successors, it shall be the duty of the delegation from Abbeville, for the time being, or a majority of the said delegation, to appoint a suitable person, a citizen of Abbeville County, to fill the vacancy till another appointment be made; and at the next session of the Legislature another appointment by Joint Resolution shall be made, to continue until a new Board shall be appointed, as hereinbefore provided.

Trustees incorporated.
Ib., 397, § 4; 1825, VIII, 348, § 32.

SEC. 4. The Board of Trustees, and their successors, are incorporated as a body corporate and politic, in deed and in law, by the name of "The Trustees of the Estate of Dr. John De La Howe," and may sue and be sued, implead and be impleaded, and make rules and regulations for their government, not repugnant to the laws of the land, such as a majority of them shall approve: *Provided*, That such corporation may, at any time, be dissolved or controlled by the Legislature; and that annual payment of interest on all moneys due, or to become due, to the said Board, shall be required to be punctually made; and that no member of the Board, during his continuance in office, shall be, directly or indirectly, a borrower of any part of the funds of the said estate, or security for any person.

Proviso.

Treasurer and Secretary to be elected. Ib., 30; 1829, VI, 307, § 6.

SEC. 5. That it shall be the duty of said Trustees, and their successors, to elect some person, not a member of their Board, who shall perform the duties of their treasurer and secretary, in such manner as they shall prescribe, and hold his office at their pleasure.

Treasurer to give bond; allowed commissions. Ib.

SEC. 6. Such treasurer shall give a bond, payable to the Trustees, by their corporate name, in a sum equal to bind the amount of the funds of the estate, with such security as the Trustees shall approve; and the said treasurer shall be entitled to receive from the said estate such compensation for his services as is allowed to executors and administrators: *Provided*, That in his commissions no charge shall be made for receiving from his predecessor or paying to his successor.

To make return annually. Ib., § 7.

SEC. 7. That it shall be the duty of the treasurer to make an annual return, on oath, of the receipts and expenditures of the said estate, to the Judge of Probate of Abbeville County, which, before it is presented to the Judge of Probate, shall be inspected and approved by the Board, a copy of which return it shall be the duty of the Judge of Probate to transmit to the succeeding Legislature.

Board to keep record and report to Legislature. Ib.

SEC. 8. It shall moreover be the duty of the Board to cause to be kept a regular record of all their proceedings, and annually to transmit to the General Assembly a faithful transcript from the said record, for the year preceding, accompanied by a copy of the last return made by them to the Judge of Probate, and by an exhibit showing the precise situation of the estate on the first Monday in February and the first Monday in November, next preceding.

May be removed. Ib., § 5.

SEC. 9. That the Court of Common Pleas for Abbeville County shall have power, for default in relation to the returns required by this Chapter, or any other sufficient cause appearing to the Judge, to remove any one or more of the Trustees, or any of their successors, from the trust committed to them; and it shall be the duty of the Judge of Probate, or the members of the delegation of Abbeville County, according as the default may be in relation to a return to the Judge of Probate or in a return to the General Assembly, having given previous notice to the Trustees, to report to the Court at its next Term any default which may occur in relation to any of the returns aforesaid; and upon such report, or other sufficient cause, laid before him, the Solicitor attending the said Court shall proceed to procure the removal of the Trustee or Trustees complained of.

TITLE IX.

OF THE PUBLIC HEALTH.

CHAPTER XXXII. *Of Physicians and Apothecaries.*
XXXIII. *Of Quarantine.*
XXXIV. *Of Asiatic Cholera.*

CHAPTER XXXII.

OF PHYSICIANS AND APOTHECARIES.

SEC.
1. Qualifications of physicians: proviso.
2. Unqualified practitioners not entitled to compensation; not applicable to dentists or midwives.
3. Qualified practitioners may sue for and collect their fees.
4. Apothecaries must obtain license of State Medical College.
5. Trustees and Faculty to examine applicants for apothecaries' licenses; to issue to those qualified; may charge $5 for each examination, and $5 for each license.
6. Compensation for *post mortem* examinations made under direction of Coroners; to report to Legislature in cases where chemical analyses are made.
7. Accounts for *post mortem* examinations to have Coroner's certificate attached.

Qualifications of physicians.

SECTION 1. That it shall be unlawful for any person within the limits of this State, who has not attended two full courses of instruction, and graduated at some school of medicine, either in the United States or some foreign country, or who cannot produce a certificate of qualification from some State medical society, and is not a person of good moral character, to practice medicine, or prescribe medicine or medicines, for reward or compensation, for any sick person within this State: *Provided*, That, in all cases, when any person has been continuously engaged in the practice of medicine for a period of ten years or more, and can produce a certificate to that effect, either from some physician of good standing or from three citizens, one of whom shall be qualified to administer an oath according to the laws of the State, he shall be considered to have complied with the provisions of this Chapter.

Proviso.

1869, XIV, 197, § 1; 1817, VI, 63, § 1.

Unqualified practitioners not to be paid; dentists and midwives excepted.

SEC. 2. In no case wherein the provisions of this Chapter shall have been violated shall any person so violating receive a compensation for services rendered: *Provided*, That nothing herein contained shall in any way be construed to apply to any person practicing dentistry, or females practicing midwifery.

1869, XIV, 197, 2. 2 Hill, 111; 12 Rich., 129.

Qualified practitioners may sue for and collect their fees.

SEC. 3. That all persons now practicing, or who may hereafter, practice medicine or surgery as herein provided, shall be entitled to charge, sue for, and collect, for their services, in the same manner as the graduates of the Medical College of South Carolina.

1817, VI, 67, 1; 1845, XI, 45, 2. 9 Rich., 273.

SEC. 4. That no apothecary within this State shall be permitted to vend or expose to sale any drugs or medicines without previously obtaining a license to do so from the Trustees and Faculty of the Medical College of the State of South Carolina.

Apothecaries must obtain license of State Medical College.
1817, VI, 65, § 9; 1853, VI, 497, § 2.

SEC. 5. That the said Trustees and Faculty of the Medical College of the State of South Carolina shall have the power to examine any apothecary who may apply to them for a license, touching his knowledge of drugs and pharmacy, and on finding such person qualified, shall grant such license, and shall receive therefor the sum of five dollars for each and every examination, and the sum of five dollars for every license.

Trustees, &c., to examine applicants for apothecaries' license, &c.
Fees for examination and license.
1817, VI, 64-5, § 7-9; 1853, VI, 497, § 2.

SEC. 6. That the following compensation shall be allowed to any physician who may be called in by the County Coroner or acting Coroner to make a *post mortem* examination, and testifying thereof as an expert, to wit: Where death has resulted from violence, the sum of ten dollars; when any chemical analysis is required, a sum not exceeding fifty dollars, together with the expenses of such analysis; and that in every case in which a physician shall be called to any distance beyond one mile, he shall be allowed five cents per mile for travel: *Provided*, That in all cases in which chemical analysis shall be made, the physician who shall make the *post mortem* examination shall furnish to the County Commissioners, with his account, a full statement of such analysis.

Compensation for *post mortem* examinations made under direction of Coroners.
To report to County Commissioners in cases where chemical analyses are made. (See Chap. XIX.)
1851, XII, 128, § 1; 1869, XIV, 274, § 2.

SEC. 7. Every account presented for service for any *post mortem* examination shall have the certificate of the Coroner, or Trial Justice acting as Coroner, that the services were rendered.

Accounts for *post mortem* examinations to have Coroner's certificate attached.
1851, XII, 129, § 1.

CHAPTER XXXIII.

OF QUARANTINE.

SEC.
1. Quarantine hospital or lazaretto on Morris Island.
2. Station of Health Officer in Charleston Harbor.
3. Vessels to anchor at anchorage ground and remain, subject to regulations. Hilton Head Quarantine to include Beaufort.
4. Vessels subject to quarantine.
5. Vessels at quarantine on first of November.
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SEC.
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but a pilot to come on board until examined; not to approach nearer than quarantine.
31. Penalty for violating this Chapter or disobeying Health Officer.
32. Health Officer to be appointed by Governor, and held office for two years; to keep records and report to Governor.
33. Salary and allowance for incidental expenses.
34. "Health Officer" to mean Health Officer or Deputies; Deputies to be physicians.
35. Penalty on pilot or other person for violating the law.
36. Quarantine officers may employ force.
37. May fire upon vessel violating the law.
38. Boats, &c., to be provided at the expense of the State.
39. Fines and forfeitures, how recovered.

Quarantine hospital or lazaretto on Morris Island.
Ibid. XIV, 2.7, 1

SECTION 1. That the Governor of the State and the Health Officer of the port of Charleston are authorized to establish, at some point on Morris Island, to be by them selected, a quarantine hospital or lazaretto, together with the necessary buildings for the accommodation of a keeper, nurses, and other attendants.

Station of Health Officer in Charleston harbor.
Ib., § 2

SEC. 2. The station of the Health Officer, or his deputies, shall be at a suitable point on Sullivan's Island, or at Fort Johnson, as may be thought best for the expeditious boarding and examination of vessels arriving from all ports into the harbor of Charleston; the location of said station to be determined upon by the Health Officer, with the approval of the Governor; and the necessary buildings shall be erected for the accommodation of the Health Officer and his deputies.

Vessels to anchor at anchorage ground, and remain subject to regulations.
Hilton Head quarantine to include Beaufort.
Ibid. XIV, 112, § 1.

SEC. 3. The anchorage ground for vessels at quarantine at the ports of Georgetown, Charleston and Hilton Head shall be where it has heretofore been, and shall be designated by buoys, to be anchored under the direction of the Health Officers; and every vessel subject to quarantine shall, immediately on her arrival, anchor within them, and there remain, with all persons arriving on her, subject to the examination and regulations imposed by law. For the purposes of quarantine, the port at Hilton Head shall be held to include the port of Beaufort.

Vessels subject to quarantine.
Ib., § 2.

SEC. 4. Vessels arriving at the ports of Georgetown, Charleston and Hilton Head shall be subject to quarantine, as follows:

1. All vessels from any place where pestilential, contagious or infectious disease existed at the time of their departure, or which shall have arrived at such place and proceeded thence to either of said ports, or on board of which, during the voyage, any case of such disease shall have occurred, arriving between the first day of May and the first day of November, shall remain at quarantine for at least thirty days after their arrival, and at least twenty days after their cargo shall have been discharged, and shall perform such further quarantine as the Health Officers may prescribe.

2. All vessels from any place (including islands) in Asia, Africa or the Mediterranean, or from any of the West Indies, Bahama, Bermuda or Western Islands, or from any place in America, in the ordinary passage from which they pass South of Hilton Head; and all vessels on board of which, during the voyage, or while at the port of their departure, any person shall have been sick, arriving between the first day of May and the first day of November, and all vessels from a foreign port, and not embraced in the first sub-division of this Section, shall, on arrival at the quarantine ground, be subject to visitation by the Health Officers, but shall not be detained beyond the time requisite for due examination and observation, unless they shall have had on board, during the voyage, some case of infectious, contagious, or pestilential disease, in which case they shall be subject to such quarantine and regulations as the Health Officers may prescribe.

3. All vessels embraced in the foregoing provisions, which are navigated by steam, shall be subject only to such length of quarantine and regulations as the Health Officer shall enjoin, unless they shall have had on board, during the voyage, some case of infectious, contagious, or pestilential disease, in which case they shall be subject to such quarantine as the Health Officer shall prescribe.

Vessels quarantine on first of November

Ib., 113, § 3.

SEC. 5. All vessels and persons remaining at quarantine on the first day of November, shall thereafter be subject to such quarantine and restrictions as vessels and persons arriving on and after that day.

Infected and foreign vessels arriving after first of November to be subject to such quarantine as Health Officer prescribes. Passengers to be vaccinated

1869, XIV, 210, § 2.

SEC. 6. All vessels arriving on and after the first day of November, having had, during the voyage, a case of small-pox, cholera, or typhus, or infectious, or contagious disease, and every vessel from a foreign port having passengers, and not hereinbefore declared subject to quarantine, shall, on her arrival, be anchored at quarantine ground, and be visited by the Health Officer, or his deputies, but shall not be detained beyond the time requisite for due examination, unless she shall have had on board during the voyage some case of small-pox, typhus, or other infectious or contagious disease, in which case she shall be subject to such quarantine as the Health Officer or his deputies shall prescribe. And it shall be the duty of the Health Officer or his deputies, whenever necessary for the public health, to cause the persons on board of any vessel to be vaccinated.

Vessels at wharves, with passengers and cargo, may be ordered to quarantine ground.

1868, XIV, 113, § 4.

SEC. 7. The Health Officers, Intendant and Wardens, or the Mayor and Aldermen, as the case may be, whenever, in their judgment, the public health shall require, may order any vessel at the wharves of either of said ports, or in their vicinity, to the quarantine ground or other place of safety, and may require all persons, articles or things introduced into said ports from such vessels to be seized, returned on board, or removed to the quarantine ground or other place. If the master, owner or consignee of the vessel cannot be found, or shall refuse or neglect to obey the order of removal, the Health Officer, Intendant and Wardens, or Mayor and Aldermen, as the case may be, shall have

power to cause such removal, at the expense of such master, owner or consignee, and such vessel or person shall not return to the port without the written permission of the Health Officer.

Vessels bound North, may pass on their voyage.
Ib., § 5.

SEC. 8. If any vessel arriving at the quarantine ground, subject to quarantine, shall be bound to some port North of either of said ports, the Health Officer, after having duly visited and examined her, may permit her to pass on her voyage, but no such vessel shall be brought to anchor off of either of said ports, nor shall any of her crew or passengers land in or hold any communication with either of said ports, or any person therefrom.

Vessels released to deliver permit.
Ib., § 6.

SEC. 9. The master of every vessel released from quarantine and arriving at a wharf in either of said ports shall, within twenty-four hours after such release, deliver the permit of the Health Officer at the office of the Mayor or Intendant, as the case may be.

Vessels arriving may return to sea.
Ib., § 7.

SEC. 10. Nothing in this Chapter shall prevent any vessel arriving at quarantine from again going to sea before breaking bulk.

Pilots to ascertain whether incoming vessels are subject to examination.
Ib., § 8.

SEC. 11. It shall be the duty of each pilot belonging to either of the said ports to use his utmost endeavors to hail every vessel he shall discover entering the port, and to interrogate the master of such vessel in reference to all matters necessary to enable such pilot to determine whether, according to the provisions of the preceding Sections, such vessel is subject to quarantine or examination by the Health Officer.

To notify vessels so subject to proceed to quarantine anchorage.
Ib., § 9.

SEC. 12. If, from the answers obtained to such inquiries, it shall appear that such vessel is subject to quarantine or examination by the Health Officer, according to the preceding Sections, the pilot shall immediately give notice to the master of the vessel that he, his vessel, his cargo, crew and passengers, are subject to such examination, and that he must proceed and anchor said vessel at the quarantine anchorage, there to await the further directions of the Health Officer.

Duties of pilots in relation to vessels under their charge and subject to quarantine.
Ib., § 10.

SEC. 13 It shall be the duty of every pilot, who shall conduct into port a vessel subject to quarantine or examination by the Health Officer:

1. To bring such vessel to anchor within the buoys marking the quarantine anchorage.

2. To prevent any vessel or boat from coming alongside of the vessel under his charge, and to prevent anything on board from being transferred to or thrown into any other vessel or boat.

3. To present to the master of the vessel a printed copy of this Chapter, when such copy shall have been delivered to him for that purpose.

4. To take care that no violations of this Chapter be committed by any person, and to report such as shall be committed, as soon as may be, to the Health Officer.

5. To subject himself to such detention and delay, and cleansing and purification, as to his person and clothing, as shall be prescribed by the Health Officer after having boarded or brought to the quarantine ground any vessel subject to quarantine.

Health Officer to board vessels, ascertain condition, and report to municipal authorities.
Ib., 114, § 11.

SEC. 14. It shall be the duty of the Health Officer to board every vessel subject to quarantine or visitation by him immediately on her arrival, between sunrise and sunset; to inquire as to the health of all persons on board, and the condition of the vessel and cargo, by inspection of the bill of health, manifest, log-book, or otherwise; to examine, on oath, as many and such persons on board as he may judge expedient to enable him to determine the period of quarantine and the regulations to which such vessel shall be made subject, and report the facts and his conclusions, and especially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the Mayor or Intendant, in writing.

To reside near quarantine grounds. Powers.
Ib., § 12.

SEC. 15. It shall be the duty of the Health Officer to reside within or near the quarantine ground, and he shall have power:

1. To remove from the quarantine anchorage ground any vessel he may deem dangerous to the public health, to any place south or east of the quarantine ground inside the bar.

2. To cause any vessel under quarantine, when he shall judge it necessary for the purification of the vessel or her cargo, passengers, or crew, or either of them, to discharge or land the same at the quarantine ground.

3. To cause any such vessel or cargo, bedding, and the clothing of persons on board, to be ventilated, cleansed and purified in such manner, and during such time as he shall direct, and if he shall judge necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing; and, with the concurrence of the Mayor or Intendant, any portion of such cargo which may be deemed incapable of purification.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine from leaving quarantine, or removing their goods or baggage therefrom, until fifteen days after the last case of pestilential, contagious or infectious disease shall have occurred on board, and ten days after her arrival at quarantine, unless sooner discharged by him.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion, to be conveyed to the landing.

6. To cause all persons under quarantine to be vaccinated, when he deems it necessary for the preservation of the public health.

7. To administer oaths and take affidavits in all examinations prescribed by this Chapter, and in relation to any alleged violation of quarantine law or regulation; such oath to have the like validity and effect as oaths administered by a Trial Justice.

May officer arrest persons eloping from quarantine, or violating law or regulations.
Ib., § 16.

SEC. 16. The Health Officer may direct in writing any Sheriff, Constable, or other citizen, to pursue and apprehend any person, not discharged, who shall elope from quarantine, or who shall violate any quarantine law or regulation, or who shall obstruct the Health Officer in the performance of his duty, and to deliver him to said officer to be detained at quarantine until discharged by said officer, but such confinement shall in no case exceed ten days. It shall be the duty of the Sheriff, Constable or other citizen, so directed, to obey such direction; and every such person so eloping, or violating quarantine law or regulations, or obstructing the Health Officer, shall be considered guilty of a misdemeanor, punishable with fine and imprisonment, in the discretion of the Court.

Quarantined vessels distinguished.
Ib., § 14.

SEC. 17. Every vessel during her quarantine shall be designated by colors to be fixed in a conspicuous part of her main shrouds.

Boats not to pass through range of, &c.
Ib., § 15.

SEC. 18. No vessel or boat shall pass through the range of vessels lying at quarantine, or land at the quarantine grounds, without the permission of the Health Officer.

Lighters not to unload quarantined vessels.
Ib., § 16.

SEC. 19. No lighter shall be employed to load or unload vessels at quarantine without permission of the Health Officer, and subject to such restrictions and regulations as he shall impose.

Passengers to be maintained by master of vessel during quarantine.
Ib., § 17.

SEC. 20. All persons being on board of vessels under quarantine shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit or refuse to provide for them, or they shall have been sent on shore by the Health Officer, they shall be maintained at the expense of such vessel, her owners, consignees, and each and every one of them; and the Health Officer shall not permit such vessel to leave quarantine until such expenses shall have been repaid or secured; and the said Health Officer shall have an action against such vessel, her owners and consignees, and each and every one of them, for such expenses, which shall be a lien on such vessel, and as such may be enforced as other liens on vessels.

Criminal passengers may be confined on shore; expense of maintenance during quarantine.
Ib., § 18.

SEC. 21. The Health Officer, upon the application of the master of any vessel under quarantine, may confine in any suitable place on shore any person on board of such vessel charged with having committed an offence punishable by the laws of this State or the United States, and who cannot be secured on board of such vessel; and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law; and the expense thereof shall be charged and collected as in the last preceding Section.

Appeal lies from Health Officer to Board of Appeal.
Ib., § 19.

SEC. 22. Any person aggrieved by any decision, order or direction of the Health Officer, may appeal therefrom to the Governor, Attorney General and Comptroller General, who shall constitute a Board of Appeal; the said Board shall have power to affirm, reverse, or modify the decision, order, or direction appealed from, and the decision of the Board thereon shall be final.

How made and prosecuted.
Ib., § 20.

SEC. 23. An appeal to the Board of Appeal must be made by serving upon the Health Officer a written notice of such appeal, within twelve hours after (Sundays excepted) the appellant receives notice of the order, decision or direction complained of. Within twelve hours after the Health Officer receives such notice (Sundays excepted) he shall make a return, in writing, including the facts on which his order, decision or direction was founded, to the Governor, who shall immediately call a meeting of the Board of Appeal, and shall be President of said Board; and said appeal shall be heard and decided within twenty-four hours thereafter (Sundays excepted); and until such decision is made, the order, decision or direction complained of, except it refer to the detention of a vessel, her cargo or passengers at quarantine, shall be suspended.

Health Officer may enforce orders; expense to be a lien upon vessel.
Ib., 116, § 21.

SEC. 24. Whenever the said Health Officer, in the performance of the duties and in the execution of the powers imposed and conferred upon him by law, shall order or direct the master, owner or consignee of any vessel under quarantine to remove such vessel from her anchorage, or to do any act or thing, or comply with any regulation relative to said vessel, or to any person or thing on board thereof, or which shall have been brought to said ports therein, and said master, owner, or consignee shall neglect or refuse to comply with such order or direction, the said Health Officer shall have power to employ such persons and assistants as may be necessary to carry out and enforce such order or direction, and the persons so employed shall have a lien on such vessel, her tackle, apparel and furniture, for their services and expenses.

Misdemeanor to violate quarantine regulations.
Ib., § 22.

SEC. 25. Every person who shall oppose or obstruct the Health Officers in performing the duties required of them by law, and every person who shall go on board, or have any communication, intercourse or dealing with any vessel under quarantine, or with any of her crew or passengers, without the permission of the Health Officer, or who shall, without such permission, invade the quarantine grounds or anchorage, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment not less than three, nor more than six months in the Penitentiary.

Governor may declare places infected.
Ib., § 23.

SEC. 26. The Governor may issue his proclamation declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease exists or may exist, to be an infected place, within the meaning of this Chapter.

Duration of pestilence.
Ib., § 24.

SEC. 27. Such proclamation shall fix the period when it shall cease to have effect; but such period, if he shall judge the public health require it, may from time to time be extended, and notice of the same shall be published in all the newspapers of said port.

Vessels from infected places to be subject to quarantine.
Ib., § 25.

SEC. 28. After such proclamation shall have been issued, all vessels arriving in either of the said ports from such infected place shall be subject to the same quarantine laws and regulations as the vessels embraced in the first sub-division of the second Section of this Chapter, and shall,

together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penalties of this Chapter, in relation to vessels subject to quarantine; but such quarantine shall not extend beyond the period when such proclamation shall cease to have effect, as provided by the last preceding Section.

Masters neglecting or refusing to obey certain regulations to be guilty of misdemeanor.—Ib., § 26.

SEC. 29. Every master of a vessel subject to quarantine or visitation of the Health Officer, arriving in either of the said ports, who shall refuse or neglect either—

1. To proceed with and anchor his vessel at the place assigned for quarantine at the time of his arrival;

2. To submit his vessel, cargo and passengers to the examination of the Health Officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought, respectively, to be subject; or,

3. To remain with his vessel at quarantine during the period assigned for the quarantine, and while at quarantine to comply with the directions and regulations prescribed by law, shall be guilty of a misdemeanor, and be punished by fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

To give correct information to pilots; not to unload or permit any but pilot to come on board; not to approach nearer than quarantine.—Ib., 117, § 27.

SEC. 30. Every master of a vessel hailed by a pilot, who shall either:

1. Give false information to such pilot, relative to the condition of his vessel, crew or passengers, or of the health of the place or places from whence he came, or refuse to give such information as shall be lawfully required;

2. Or land any person from his vessel, or permit any person, except a pilot, to come on board of his vessel, or unlade or tranship any portion of his cargo, before his vessel shall have been visited and examined by the Health Officer;

3. Or shall approach with his vessel nearer to the wharves in said ports than the place of quarantine to which they may be directed, shall be guilty of the like offence, and subject to the like punishment; and any person who shall land from any vessel, or unlade or tranship any portion of her cargo, under like circumstances, shall be guilty of a like offence, and subject to the like punishment.

Penalty for violation of this Chapter, &c.—Ib., § 28.

SEC. 31. Any person who shall violate any provision of this Chapter, or neglect or refuse to comply with the directions and regulations which any of the Health Officers may prescribe, shall be guilty of the like offence, and be subject, for each offence, to the like punishment.

Health officers to be appointed by Governor; term of office; to keep records, &c.—Ib., § 29.

SEC. 32. There shall be one Health Officer at the port of Georgetown, one at Charleston, and one at Hilton Head, respectively, who shall be appointed by the Governor, and who shall hold their offices for the term of two years, unless sooner removed. Said officers shall keep a faithful record of all their doings under the provisions of this Chapter, and report the same to the Governor at the end of each month.

Salary; incidental expenses.
Ib., § 30.

SEC. 33. Said Health Officers shall each receive an annual salary of twelve hundred dollars, except the Health Officer at the port of Charleston, who shall receive an annual salary of fifteen hundred dollars, payable quarterly, out of the Treasury of the State; and they each shall be allowed an additional sum of fifteen dollars per month, for boat hire and other incidental expenses.

"Health officer" to include "deputies;" deputies to be physicians.
1869, XIV, 270, § 1.

SEC. 34. That wherever the words "Health Officer" occur in this Chapter, they shall be understood to mean the Health Officer or his deputies: *Provided*, That said deputies shall, in all cases, be graduates of a regular medical school.

Penalty on pilot or other person for violating the law.
1784, IV, 615, § 2; 1869, V, 598, § 2; 1832, VI, 473, § 8.

SEC. 35. Every pilot or other person who shall bring, or attempt to bring, or cause to be brought, into any port of this State, any vessel, or the whole or any part of the crew, passengers or cargo beyond the places appointed for her examination, without such vessel being examined according to law, shall forfeit and pay, the one-half to the use of the State, and the other half to the use of such person as shall sue for the same, the sum of five hundred dollars; and the pilot shall, moreover, be deprived of his branch as a pilot: *Provided*, That nothing herein contained shall extend to persons who may be shipwrecked.

Quarantine officers may employ force.
1869, V, 598, § 1.

SEC. 36. The officer or officers who may be entrusted with the execution of the quarantine laws are authorized and directed, in case of a violation, or attempt to violate, any of the said laws, to board, by force of arms, any vessel used in such violation, or attempt to violate, and to detain her and her crew and passengers.

May fire upon vessel violating the law.
Ib., § 3; 1832, VI, 473, § 7.

SEC. 37. Any vessel which shall be restrained under quarantine laws, and shall attempt to violate the same, may be fired upon, and detained by force of arms.

Boats, &c., to be provided at expense of State.
1797, V, 310, § 1.

SEC. 38. When the Governor may deem it necessary, he shall, at the expense of the State, hire and employ boats and small craft, and a sufficient number of able men, well armed, to be stationed wherever he may think fit, and to act under his directions, in order to enforce obedience to the laws of this State requiring the performance of quarantine; and, also, to arm such men, if requisite, with any firearms belonging to this State.

Fines and forfeitures, how recovered.
1832, VI, 473, § 5.

SEC. 39. All fines and forfeitures and penalties provided by the laws of the State for the violation of the quarantine laws, or disobedience of the orders of the Governor establishing quarantine regulations, shall be recovered by indictment in the Court of Sessions; and all persons offending against the same, upon conviction, shall be liable to imprisonment not exceeding twelve months, in addition to such fines, forfeitures and penalties.

CHAPTER XXXIV.

Of Asiatic Cholera.

Sec. 1. Governor to make regulations to suppress.

Governor to suppress. 1865, XIII, 307.

Section 1. That full power and authority is given to the Governor of this State, by his Proclamation, to make such regulations as, in his opinion, may be necessary in order to prevent the entrance of Asiatic Cholera into this State, and to prevent the spreading of such disease in this State.

TITLE X.

OF PUBLIC INSTRUCTION.

Chapter XXXV. *Of the State Superintendent of Education.*
XXXVI. *Of the State Board of Education.*
XXXVII. *Of Text Books.*
XXXVIII. *Of County School Commissioners and Boards of Examiners.*
XXXIX. *Of School Districts and Trustees.*
XL. *Of the Normal School.*
XLI. *Of the Agricultural College.*
XLII. *Of the University of South Carolina.*
XLIII. *Of the Deaf and Dumb and the Blind.*

CHAPTER XXXV.

Of the State Superintendent of Education.

Sec.
1. Election. Term of office.
2. To give bond in $5,000, and subscribe oath of office. Bond to be filed with Secretary of State.
3. Pay and allowances
4. Duties in general.
5. To secure uniformity in text books and forbid sectarian or partisan books or instruction.
6. To furnish blanks, &c.; to have school laws, rules, &c., printed and transmit to Commissioners for distribution.
7. To collect books; annual appropriation to purchase educational works.
8. To apportion school fund annually.
9. To report to General Assembly at each regular session; what to contain.
10. To make statement, in report, of official visits.
11. To discharge other duties provided by law; to deliver all books, &c., to successor.
12. To examine teachers; issue certificates of qualification; nature of certificate; for how long valid.
13. In case of vacancy, Governor to appoint.
14. Appropriation for Clerk hire; proviso.

Election. Term of office. 1871, XIV, 575, § 6.

Section 1. At the general election in 1872, and every four years thereafter, a State Superintendent of Education shall be elected, in the same manner as other State officers, who shall enter upon the duties of his office on the first day of January succeeding his election, and continue in office till his successor is elected and qualified.

SEC. 2. He shall, before entering upon the duties of his office, give bond to the State of South Carolina, in the penal sum of five thousand (5,000) dollars, with good and sufficient sureties, to be approved by the Governor, conditioned for the faithful and impartial performance of the duties of his office; and he shall, also, at the time of giving bond, take and subscribe the oath prescribed in Section 30 of Article II of the Constitution of the State, which oath shall be endorsed upon the back of said bond, and the bond shall be filed with and preserved by the Secretary of State.

To give bond in $5,000, and take oath of office; bond to be filed.
Ib., § 7.

SEC. 3. He shall receive, as compensation for his services, the sum of twenty-five hundred (2500) dollars per annum, together with his actual cost of transportation when traveling on public business, payable quarter-yearly out of the State Treasury.

Pay and allowances.
Ib., § 8.

SEC. 4. He shall have general supervision over all the common and public schools of the State; and it shall be his duty to visit every County in the State, for the purpose of inspecting the schools, awakening an interest favorable to the cause of education, and diffusing, as widely as possible, by public addresses and personal communication with school officers, teachers and parents, a knowledge of existing defects and of desirable improvements in the government and instruction of the schools.

Duties in general.
Ib., 576, § 9.

SEC. 5. He shall secure uniformity in the use of text books throughout the common and public schools of the State, and shall forbid the use of sectarian or partisan books and instruction in schools.

Uniformity in text books, &c.
Ib., § 10.
(See Chap. XXXVII, § 1.)

SEC. 6. He shall prepare and transmit to the several County School Commissioners school registers, blank certificates, reports, and such other suitable blanks, forms and printed instructions as may be necessary to aid school officers and teachers in making their reports, and carrying into full effect the various provisions of the school laws of this State; and shall cause the laws relating to common schools, with such rules, regulations, forms and instructions as shall be prescribed by the Board of Education, to be printed, together with a suitable index, in pamphlet form, by the person authorized to do the State printing, at the expense of the State; and he shall cause copies of the same to be transmitted to the several County School Commissioners for distribution.

To furnish blanks, &c. To have school laws, rules, &c., printed and distributed.
Ib., § 11.

SEC. 7. That it shall be the duty of the State Superintendent of Education to collect in his office such school books, apparatus, maps and charts as can be obtained without expense to the State; and also to purchase, at an expense not exceeding fifty dollars a year, rare and valuable works on education, for the benefit of teachers, authors, and others, who may wish to consult them; and the said sum is hereby annually appropriated for this purpose out of any moneys in the State Treasury not otherwise appropriated.

To collect books, &c.
Ib., § 12.

Annual appropriation.

To apportion school fund annually.
Ib., 577, § 17. (Amended by Com.)

SEC. 8. That he shall, annually, on the first day of November, or as soon thereafter as the amount of the school fund, or any considerable portion thereof, arising from the school tax or any other source, shall be collected at the Treasury, (and so on from time to time as said fund is realized at the Treasury,) apportion the same among the several School Districts of the State, in proportion to the respective number of pupils attending the public schools, and he shall certify such apportionment to the State Treasurer. He shall also certify to the Treasurer and School Commissioner of each County the amount apportioned to their County, and he shall draw his order on the State Treasurer in favor of the County Treasurer of each County for the amount apportioned to said County.

To report annually to General Assembly.
Ib., 576, § 15.

Report, to contain what.

SEC. 9. That he shall make a report, through the Governor, to the General Assembly, at each regular session thereof, showing:

1st. The number of persons between the ages of six (6) and sixteen (16) years, inclusive, residing in the State on the first day of the last preceding October.

2d. The number of such persons in each County.

3d. The number of each sex.

4th. The number of white.

5th. The number of colored.

6th. The whole number of persons that attended the free common schools of the State during the year ending the thirtieth day of the last preceding September, and the number in each County that attended during the same period.

7th. The number of whites of each sex that attended, and the number of colored of each sex that attended the said schools.

8th. The number of common schools in the State.

9th. The number of pupils that studied each of the branches taught.

10th. The average wages paid to teachers of each sex.

11th. The number of school houses erected during the year, and the location, material and cost thereof.

12. The number previously erected, the material of their construction, their condition and value, and the number with their grounds enclosed.

13th. The Counties in which teachers' institutes were held, and the number that attended the institutes in each County.

14th. Such other statistical information as he may deem important, together with such plans as he may have matured, and the State Board of Education may have recommended for the management and improvement of the School fund, and for the more perfect organization and efficiency of the common schools.

15th. The number and cost of the books furnished to each County School Commissioner.

To make statement of official visits.
Ib., § 14.

SEC. 10. He shall submit, in his Annual Report, a statement of his official visits during the past year.

SEC. 11. He shall discharge such other duties as may be provided by law; and he shall deliver to his successor, within ten days after the expiration of his term of office, all books, papers, documents and other property belonging to his office.

To discharge other duties, &c. To deliver books, &c., to successor.
Ib., § 13.

SEC. 12. He shall have power to examine all persons who may make application to him, as to their qualification for teaching school in this State; and, to all persons of good moral character who pass a satisfactory examination, he shall issue a certificate of qualification for teaching school in the State of South Carolina, which certificate shall authorize the person to whom it is given to teach in any of the common schools of this State, in which his or her services may be desired by the Trustees of the school in which he or she may make application to teach, without any further evidence of qualification. Said certificate shall be valid for the term of two (2) years, unless sooner revoked.

To examine teachers; to issue certificates of qualification: nature of certificate.
Ib., § 16.

SEC. 13. That in case of vacancy in the office of State Superintendent of Education, the Governor shall appoint, with the advice and consent of the Senate, a person to fill such vacancy, who shall qualify within fifteen days after his appointment, and shall continue in office until the next ensuing general election, when a person shall be elected to fill the unexpired term; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

In case of vacancy, Governor to appoint.
Ib., § 20.

SEC. 14. That there is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, the sum of one thousand dollars, annually, to the State Superintendent of Education, for the purpose of defraying the expenses of clerk hire in the office of the said State Superintendent of Education, said sum to be drawn quarterly by him, and to be disbursed by the said State Superintendent, for the purpose herein named: *Provided*, That the said sum of one thousand dollars shall be in full for the annual payment for all clerk hire of said Department.

Appropriation for clerk hire.
Ib., § 18.

Proviso.

CHAPTER XXXVI.

OF THE STATE BOARD OF EDUCATION.

SEC.
1. Of whom to consist; State Superintendent to be Chairman; may elect Secretary.
2. Object of meetings.
3. Where and when held; mileage of members.
4. To hold lands, &c., in trust for State; profits to be invested; proviso.
5. State Superintendent, &c., to receive gifts, &c., for Board; care of school houses, &c.

SECTION 1. That the State Board of Education shall consist of the several County School Commissioners and the State Superintendent of Education, who shall be *ex officio* Chairman of the Board, and who shall be entitled to vote on all questions submitted to the Board. The Board may elect one of its members Secretary.

How composed. State Superintendent Chairman. To elect Secretary.
1871, XIV, 574, § 1.

Object of meetings.
Ib., 3.

SEC. 2. The meetings of the State Board of Education shall be held for the purpose of considering such matters as may be deemed necessary, and of taking such action as may advance the cause of common school education in this State.

Where and when held.
Ib., § 2.

SEC. 3. That the State Board of Education shall meet on the first Wednesday in October of every year, at the Capital of the State, and at such other times and places as the State Superintendent of Education shall direct. The members of the Board shall be entitled to receive a mileage at the rate of twelve (12) cents per mile going to and returning from the meetings of the Board aforesaid, to be paid by the State Treasurer on presentation of a certificate signed by the Chairman and Secretary of the Board.

Mileage of members.

To hold lands, &c., in trust for the state.
Ib., 575, § 5.

SEC. 4. That the State Board of Education shall take and hold in trust, for the State, any grant or devise of lands, and any gift or bequest of money, or other personal property, made to it for educational purposes, and shall pay into the State Treasury, for safe-keeping and investment, all moneys and incomes from property so received. The State Treasurer shall, from time to time, invest all such money in the name of the State, and shall pay to the State Board of Education, on the warrant of the Governor, the income or principal thereof, as it shall, from time to time, require: *Provided*, That no disposition shall be made of any grant, devise, gift or bequest inconsistent with the conditions or terms thereof. For the faithful management of all property so received by the State Treasurer he shall be responsible, upon his bond, to the State, as for other funds received by him in his official capacity: *Provided, however*, That the Trustees of any School District of this State may take and hold in trust, for their particular School District, any grant or devise of lands, and any gift or bequest of money, and apply the same in the interest of the schools of their District, in such manner as, in their judgment, seems most conducive to the welfare of the schools, when not otherwise directed by the terms of the said grant or devise, gift or bequest: *And provided, further*, That before said Trustees shall assume control of any such grant, devise or bequest, they shall give a bond, to be approved by the School Commissioner of the County in which such grant, devise or bequest is made; said bond to be deposited with the Clerk of the Court of said County.

Profits to be invested.

Proviso.

State Superintendent, &c., to receive gifts, &c., for Board. Care of school houses, &c.
Ib., 582, § 15.

SEC. 5. That the State Superintendent of Education, or any County School Commissioner, or School District Board of Trustees, may receive, in behalf of the State Board of Education, any gift, grant, donation or devise of any school house, or site for a school house, or library for the use of any school or schools, or other school purposes within the State, and are hereby invested with the care and custody of all school houses, sites, or other property belonging to the State Board of Education within the limits of their jurisdiction, with full power to control the same in such manner as they may think will best subserve the interests of common schools and the cause of education, subject to the control of the State Board of Education.

CHAPTER XXXVII.

Of Text Books.

SEC.
1. Commission provided for, which shall decide upon a list of Text Books, and furnish to the Board of Education.
2. How books shall be furnished to Districts.

SECTION. 1. That, for the purpose of procuring an uniform system of Text Books, to be used in the common and public schools throughout the State, there shall be a Commission of five appointed, to consist of His Excellency the Governor, who shall be *ex officio* Chairman, the Chairman of the Committee on Education of the Senate and House of Representatives, and, for the purpose of selecting the other two members, the Senate shall, by a majority of votes, appoint one, and the House of Representatives shall, in like manner, select the other: *Provided*, That the Commission herein appointed shall not have power to amend or change the list of Text Books already in use until the first of January, 1873, unless authority be granted to the Commission, by Act of the General Assembly, to amend or change the list aforesaid: *And provided, further*, That the Commission shall decide upon a list of Text Books to be used in the common and public schools throughout the State, and shall furnish the same to the Board of Education at its first session.

Commission provided for, to decide upon list of text books; the list to be furnished.
1871, XIV, 574, § 3.

SEC. 2. That the School Trustees of every School District shall make out and forward to the School Commissioner of the County wherein such School District is situated a list of all Text Books needed by the persons attending school, which list, when properly certified to by said Trustees, the School Commissioner shall approve and forward to the State Superintendent of Education. The State Superintendent of Education shall, as soon as practicable after the receipt of such list, forward the books therein required free of charge. And the General Assembly shall, by appropriation, provide for the payment of the books aforesaid.

How furnished to Districts.
Ib., § 4.

CHAPTER XXXVIII.

Of County School Commissioners and Boards of Examiners.

SEC.
1. Commissioners to be elected every two years; term of office; bond.
2. Oath; in case of vacancy, Governor to appoint.
3. General duties; to deliver public lecture in each District, annually.
4. To see that certain branches are taught.
5. To report annually to the State superintendent.
6. Penalty for failure to report.
7. To conform to instructions of State Superintendent, &c; to transmit to school officers all blanks, &c.
8. County Treasurers to retain poll tax for school purposes; penalty for failure.
9. Commissioner for Charleston County.
10. Jurisdiction does not extend over city.
11. One Commissioner to be elected in each Ward of Charleston; term of office; to constitute a School Board, and elect Chairman and Clerk; duties of Board; power to levy school tax.
12. Pay of County School Commissioners.
13. Board of Examiners; how constituted; Commissioner to be Chairman: Board to examine teachers and give certificates yearly.
14. Board to meet twice a year; Commissioner to be Clerk.
15. Length of School year, &c.

SECTION 1. There shall be elected in each County, at the general election in October, A. D. 1872, and at the general election every two

Election of Commissioner; term of office.
1871, XIV, 578, § 21.
Con., Art. X, § 2.

years thereafter, a School Commissioner, who shall hold his office until his successor is elected and qualified. He shall, before entering upon the duties of his office, give bond, for the use of the County in which he is elected, for educational purposes, in the penal sum of twice the amount of his annual salary, with good and sufficient sureties, to be approved by the County Commissioners, conditioned for the faithful and impartial discharge of the duties of his office.

Oath; Governor to fill vacancy.
Ib., § 22.

SEC. 2. That on the first day of January next succeeding the date of his election, he shall take and subscribe the oath of office prescribed in Section 30, Article II, of the Constitution of this State, which oath he shall file in the office of the Clerk of the Court of the County in which he was elected, and shall immediately enter upon the discharge of his duties, and, upon his failure so to do, or if for any other cause there should be a vacancy in the office, the Governor shall appoint a person to fill such vacancy, who shall qualify within fifteen days after his appointment, and shall continue in office until the time prescribed for filling said office by election, as herein provided; and should the person so appointed fail to qualify within the time specified, such failure shall create a vacancy.

General duties.
Ib., § 23.

SEC. 3. It shall be the duty of each County School Commissioner to visit each of the schools in his jurisdiction at least three times a term, and to note the course and method of instruction, and the branches taught, and to give such recommendations in the art of teaching, and the method thereof, in each school, as shall be necessary and expedient, so that uniformity in the course of studies and methods of instruction employed shall be secured, as far as practicable, in the schools of the several grades respectively. He shall acquaint himself, as far as practicable, with the character and condition of each school, noting any deficiencies that may exist, either in the government of the school or the classification of its pupils, or the method of instruction employed in the several branches, and shall make such suggestions, in private, to the teachers, as to him shall appear necessary to the good order of the school, and the progress of the pupils.

He shall note the character and condition of the school houses, the sufficiency or insufficiency of the furniture, and shall make such suggestions to the several District Boards as, in his opinion, shall seem conducive to the comfort and progress of the pupils of the several schools. It shall be the duty of each County School Commissioner to aid the teachers in all proper efforts to improve themselves in their profession.

For this purpose he shall encourage the formation of associations of teachers for mutual improvement; he shall attend the meetings of such associations, and give such advice and instruction in regard to their conduct and management as, in his judgment, will contribute to their greater efficiency. He shall, also, deliver a public lecture to the people in each of the several Districts of the County each year, for the purpose of elevating the standard of education, and increasing the general interest of the people in public schools.

SEC. 4. That it shall be his duty to see that in every school under his care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar, history of the United States, the principles of the Constitution and Laws of the United States and of this State, and good behavior.

To see that certain branches are taught.
Ib., 579, § 24.

SEC. 5. He shall, on or before the first day of October, each year, forward to the State Superintendent of Education an extended report, containing an abstract of the reports made to him by the various school officers and teachers in his County, and showing the condition of the schools under his charge, suggesting such improvements in the school system as he may deem useful, and giving such other information in regard to the practical operation of the common schools, and laws relating thereto, as may be deemed of public interest. He shall also include, in his report, such other matters as he shall be directed to report by the State Superintendent of Education.

To report annually to the State Superintendent.
Ib., § 25.

SEC. 6. That, should he fail to make the Annual Report required in the preceding Section, he shall forfeit to the school fund of his County his last quarter's salary of that year, and shall also be liable for all damages caused by such failure.

Penalty for failure to report.
Ib., § 26.

SEC. 7. That he shall, at all times, conform to the instructions of the State Superintendent of Education, as to matters within the jurisdiction of said Superintendent. He shall serve as the organ of communication between the said State Superintendent and school authorities. He shall transmit to school officers, or teachers, all blanks, circulars, and other communications which are to them directed.

To conform to instructions of State Superintendent, &c.
To transmit to school officers, all blanks, &c.
Ib., § 27.

SEC. 8. That the several County Treasurers shall retain all the poll tax collected in their respective Counties; and it is hereby made the duty of the said County Treasurers, in collecting the poll tax, to keep an account of the exact amount of said tax collected in each School District in his County; and the poll tax collected therein shall be expended for school purposes in the School District from which it was collected; and any violation of this Section by the County Treasurers shall constitute, and is hereby declared, a misdemeanor; and, on conviction thereof, the said County Treasures shall pay a fine of not less than five hundred (500) dollars, nor more than five thousand (5,000) dollars, to be used for school purposes in the County suffering from such violation, or imprisonment, in the discretion of the Court.

County Treasurers to retain poll tax for school purposes.
1871, XIV, 559, §§ 2, 3.

SEC. 9. That it shall be the duty of the School Commissioner of Charleston County to organize, in all the School Districts outside of the city of Charleston, a suitable number of schools. He shall also visit said schools not less than three times during each year, and shall perform such other duties as are prescribed for County School Commissioners.

Commissioner for Charleston County.
Ib., 583, § 46.

No jurisdiction over city.
Ib., § 47.

SEC. 10. The School Commissioner of the County of Charleston shall have jurisdiction only over the schools and all educational interests outside of the corporate limits of the city of Charleston.

One Commissioner to be elected to each ward of Charleston.
Term of office.
To constitute a School Board and elect Chairman and Clerk.

SEC. 11. That at every regular municipal election held in the city of Charleston, one School Commissioner shall be elected by the legal votes of each ward, who shall continue in office until his successor is elected and qualified. The School Commissioners so elected shall constitute a School Board, and they may assemble at any time and elect a Chairman and Clerk and Superintendent of City Schools, whose term of office, duties and compensation shall be prescribed by said Board, but his term of office shall not exceed that of the Board electing him. The duties of the Board aforesaid shall be the same as those of the Board of School Trustees for the several School Districts, in addition to which they shall, on or before the first day of October, forward to the State Superintendent of Education a report of all matters connected with the school interests of the city of Charleston, as are required of each County School Commissioner. They shall also have power to levy and cause to be collected, as other city taxes are, a sum not to exceed one and one-half of one mill on the dollar on all taxable property in said city of Charleston; and the money so collected shall be placed in the City Treasury, subject to the order of said City Board of School Commissioners.

May levy school tax.
Ib., § 48.

Pay of County School Commissioners.
Ib., 579, § 28.

SEC. 12. That each County School Commissioner shall receive as compensation for his services, including expenses of transportation within his County, an annual salary of one thousand (1,000) dollars, except the County School Commissioner of Charleston County, who shall receive an annual salary of twelve hundred (1200) dollars, payable quarterly by the Treasurer.

Board of Examiners; how constituted; Commissioner to be Chairman.

SEC. 13. That there shall be, in each County, a Board of Examiners, composed of the County School Commissioner, (who shall, *ex officio*, be Chairman,) and two other members, who shall be appointed by the County School Commissioner, and who shall hold office for the term of two years from the time of their appointment; but no person shall be appointed a member of the County Board of Examiners who is not competent to teach a first grade school.

Board to examine teachers, &c., yearly.
Ib., 580, § 31.

It shall be the duty of the County Board of Examiners to examine all candidates for the profession of teacher, and to give to each person found qualified a certificate, setting forth the branches of learning he or she may be capable of teaching. Such examination to be renewed every year, and no teacher shall be employed in any of the common or public schools, without a certificate from the County Board of Examiners, or the State Superintendent of Education.

Board to meet twice a year; Commissioner to be Clerk, &c.
Ib., § 32

SEC. 14. The Board of County School Examiners shall meet at least twice a year, at such places, and at such times, as the County School Commissioner shall appoint; and the County School Commissioner shall be Chairman and Clerk of the Board, and shall keep a fair

record of their proceedings, and a register of the name, age, sex, color, residence and date of certificate of each person to whom certificate is issued, and in case a certificate be cancelled, shall make a proper entry of the same.

Length of school year, &c.
Ib., 582, § 43.

SEC. 15. That the school year shall continue for a period of nine months, commencing and ending as, in the opinion of the County Board of Examiners, will best subserve the educational interest of their County; but the County School Commissioner shall have power to limit the school year, according to the school fund apportioned to his County.

CHAPTER XXXIX.

OF SCHOOL DISTRICTS AND TRUSTEES.

SEC.
1. School Commissioners to divide Counties into Districts; Districts, how designated; may sue, &c; to be under management of School Trustees; their term of office.
2. How appointed.
3. To take oath.
4. Meetings; Clerk to be appointed; his duties.
5. Duties of Trustees: to visit schools.
6. To make enumeration of children every two years; how and by whom paid; proviso.
7. To hold regular session, when; special meetings.
8. General powers of Trustees.
9. May appoint a jury of view to locate school site; jury to assess value; title to vest in Trustees.
10. Penalty for interfering with jury of view.
11. Children may be transferred to other Districts: schools composed of parts of Districts, how supported.
12. Teachers to report to Board, when; pay of teachers, when drawn and how.
13. Annual meetings; special meetings.
14. Who may vote at District meetings.
15. Powers of such meetings.
16. School money to be held by Treasurer, subject to order of Clerk of Board; when and how assessed and collected.

County School Commissioners to divide Counties into Districts.

Designation of District, &c.

To be under management of Trustees; their term of office.
Ib., 580, § 30.

SECTION 1. It shall be the duty of each County School Commissioner to divide his County into convenient School Districts, for all purposes connected with the general interest of education, and re-district the same, whenever, in his judgment, the general good requires it. And every School District organized in pursuance hereof, shall be a body politic and corporate, by the name and style of School District No. —, (such a number as may be designated by the County School Commissioner,) of——— County, (the name of the County in which the District is situated,) State of South Carolina; and in that name may sue and be sued, and be capable of contracting and being contracted with, and holding such real and personal estate as it may come into possession of, by will or otherwise, or as is authorized to be purchased by the provisions of this Chapter, all of which shall be used exclusively for school purposes. Each School District shall be confined to the management and control of the Board of School Trustees hereinafter provided for, who shall hold their office for two (2) years, and until their successors are appointed and qualified, and the said Trustees shall be exempt from militia and road duty, and payment of poll tax.

How appointed. Ib., § 33.

SEC. 2. It shall be the duty of each County Board of School Examiners to appoint for each and every School District in their County three School Trustees, who shall hold their office for two years, and whose duty shall be as herinafter prescribed; and they shall have power to fill, from time to time, all vacancies which may occur in their respective School Districts in Boards of School Trustees in their County.

To take oath of office. Ib., § 34.

SEC. 3. The said Trustees, within fifteen (15) days after their appointment, shall take an oath or affirmation faithfully and impartially to discharge the duties of their office, which oath the members are authorized to administer to each other.

Meetings; Clerk to be appointed; his duties. Ib., § 35.

SEC. 4. It shall be the duty of the said Trustees, any two of whom shall constitute a quorum, to meet as soon and often as practicable, after having been appointed and qualified, at such place as may be most convenient in the District, and at their first meeting they shall organize by appointing one of their number Clerk of the Board, who shall preside at the official meetings of the Trustees, and shall record their proceedings in a book provided for that purpose. Each member of the Board of Trustees shall be duly notified of all meetings by the Clerk of the Board.

Duties of Trustees. Ib, 581, § 36.

SEC. 5. It shall be the duty of the Trustees in each School District to take the management and control of the local educational interests of the same, subject to the supervision of the County School Commissioner, and to visit the school at least once in every month during the school term.

To make enumeration of children every two years.

How and by whom paid.

Proviso. Ib., § 37.

SEC. 6. They shall make, or cause to be made, once in two years, in each School District, by the first day of September, an enumeration of all the children between the ages of six (6) and sixteen (16) years, resident within such School District, distinguishing between male and female, white and colored; and the Clerk of said Board of Trustees shall return to the County School Commissioner a duplicate return of the same. Each School Trustee shall receive five (5) cents *per capita* for each child enumerated by him; the account for which shall be audited by the County School Commissioner, and paid, according to law, by the County Treasurer, out of the school fund of the School District wherein the enumeration was made: *Provided*, That in case the enumeration of the scholastic population of any School District is not made, as provided for in this Chapter, by that time, the County Board of School Examiners is authorized to appoint new Trustees for such School District, unless for good and sufficient cause the Trustees have failed to act.

To hold regular session, when; special meetings. Ib., § 38.

SEC. 7. It shall be the duty of the Board of Trustees to hold a regular session in their School District at least two weeks before the commencement of any or every school term, for the transaction of any and all business necessary to the prosperity of the school, with power to adjourn, from time to time, and to hold special meetings at any time or place.

General powers of Trustees. Ib., § 39.

SEC. 8. The Board of Trustees shall have power to establish and make all arrangements for the common schools of Districts, and to make the same comfortable, paying due regard to any school house already built, or site procured, as well as to all other circumstances proper to be considered, so as to best promote the educational interest of their District. They shall employ teachers from among those having certificates, and discharge the same when good and sufficient reasons for so doing present themselves; but they shall employ no person to teach in any of the schools under their supervision unless such person shall hold, at the time of commencing his or her school, a certificate to teach, granted by the County Board of School Examiners, or by the State Superintendent of Education.

May appoint a jury to locate school sites.

SEC. 9. Should the Board of Trustees be unable otherwise to procure sites for school houses, they are hereby authorized to appoint a jury of view of five (5) legal voters of the County, who shall locate said site as the public interest may require; but, except in a city, town or village, said site shall not be located within two hundred (200) yards of the dwelling of the owner of the land taken for said site without his consent, given in writing. The said jury shall assess the value of the same, and report their action to the Board of Trustees, who shall secure the title and pay for the site, as decided by the jury of view, out of any moneys available for that purpose; and, upon such payment, the title shall immediately vest in the Trustees and their successors in office.

Jury to assess the value; title to vest in Trustees. Ib., § 40

Penalty for interfering with jury. Ib., 582, § 41

SEC. 10. That if any person or persons shall threaten, or in any manner interfere with the jury of view herein directed to be appointed, while discharging the duties herein prescribed, he or they, separately or conjointly, shall be deemed guilty of a misdemeanor, and, on conviction in any Court of competent jurisdiction, be fined not more than two hundred dollars, or be imprisoned not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the Court; and any moneys accruing from such fines shall be added to the school fund of the School District wherein the guilty party or parties reside.

Children may be transferred to other Districts; schools composed of two or more Districts—how supported. Ib., § 42.

SEC. 11. That when it shall so happen that persons are so situated as to be better accommodated at the school of any adjoining School District, or whenever it may be desirable to establish a school composed of parts of two or more School Districts, it shall be the duty of the respective Boards of Trustees of the School Districts in which such persons reside, or in which such schools may be situated, or of the School Districts, or the parts of which the school is to be composed, to transfer such persons for education to the School District in which such school house is or may be located; but the enumeration of scholars shall be taken in each District as if no such transfer had been made; and such school, when so composed, shall be supported from the school funds of the respective School Districts from which the scholars may have been transferred.

Teachers to report to Board when; pay, when drawn and how.

Ib., § 44.

SEC. 12. That it shall be the duty of each school teacher to make out and file with the Clerk of the Board of Trustees, at the expiration of each school month, a full and complete report of the whole number of scholars admitted to the school during each month, distinguishing between male and female, the average attendance, the branches taught, the number of pupils engaged in each of said branches, and such other statistics as he or she may be required to make by the County School Commissioner; and until such report shall have been certified and filed by the said teacher, as aforesaid, it shall be the duty of said Board of Trustees to require the same, and forward to the County School Commissioner, before said teacher can draw pay for his or her services. On the filing of the teacher's report, the Clerk of the Board of Trustees shall draw an order, in duplicate, on the County Treasurer for the amount due each teacher, which order shall be countersigned by the County School Commissioner, who shall file the duplicate in his office.

Annual meetings.

SEC. 13. An annual meeting of each School District shall be held on the last Saturday of June, of each year, at 12 o'clock M., notice of the time and place being given by the Clerk of the Board of Trustees, by posting written or printed notices in three public places of the District at least ten days before the meeting.

Special meetings.

Ib., 583, § 49.

Special meetings may be called by the Board of Trustees, or by a majority of the legal voters of the District; but notice of such special meeting, stating the purpose for which it is called, shall be posted in at least three public places within the District, ten days previous to the time of such meeting. And no business shall be acted upon at any special meeting not specified in said notice.

Who may vote at District meetings.

Ib., 584, § 50.

SEC. 14. The following persons shall be entitled to vote at any District meeting, viz.:

All persons possessing the qualifications of electors, as defined by the Constitution of this State, and who shall be residents of the District at the time of offering to vote at such meeting.

Powers of such meetings.

Ib., 584, § 51.

SEC. 15. The inhabitants qualified to vote at a school meeting, lawfully assembled, shall have power:

1st. To appoint a Chairman to preside over said meeting.

2d. To adjourn from time to time.

3d. To choose a Clerk, who shall possess the qualification of a voter.

4th. To raise by tax, in addition to the amount apportioned by the State to their use, such further sums of money as they may deem proper for the support of public schools, said sum not to be more than three dollars for every child in the District between the ages of six and sixteen, as ascertained by the last enumeration, said sum to be collected by the County Treasurer, and to be held by him subject to the order of the Trustees, countersigned by the County School Commissioner, such sums of money to be used as shall be agreed upon at the meeting, either for the pay of teachers' salaries or to purchase or lease sites for school houses;

to build, hire or purchase such school houses; to keep them in repair, and furnish the same with necessary fuel and appendages; or to furnish black-boards, outline maps and apparatus for illustrating the principles of science, or to discharge any debts or liabilities lawfully incurred.

5th. To give such direction and make such provisions as may be deemed necessary, in relation to the prosecution or defence of any suit or proceeding in which the District may be a party.

6th. To authorize the Board of Trustees to build school houses, or rent the same; and to sell any school house site, or other property belonging to the District, when the same shall no longer be needed for the use of the District.

7th. To alter or repeal their proceedings, from time to time, as occasion may require, and to do any other business contemplated in this Chapter.

School money to be held by Treasurer, subject, &c. Ib., § 29.

When and how assessed and collected.

Proviso.

SEC. 16. The County Treasurer shall pay over all moneys by him received, which shall have been assessed by virtue of the vote of any District meeting, as herein provided for, in the County in which such District is situated, on the order of the Clerk of the Board of Trustees of said District, countersigned by the County School Commissioner, to be used for the purpose directed by the District meeting so held. Said money shall be assessed and collected at the time, and in the manner that County taxes are assessed and collected: *Provided*, That in School Districts where there are less than one hundred children between the ages of six and sixteen, the inhabitants may raise such a sum, per child, as will be sufficient to maintain their schools.*

CHAPTER XL.

NORMAL SCHOOL.

SEC.
1. Normal School to be conducted in connection with Charleston Female High School.
2. Kind of pupils admitted; proviso.
3. Charleston City School Commissioners to make regulations for school, &c.

To be conducted in connection with Charleston Female High School. 1857, XII, 603, § 1; 1871, XIV, 583, § 48.

SECTION 1. That the Charleston City Board of School Commissioners are authorized to conduct a Normal School for the training of female teachers for the State at large, in connection with the Female High School heretofore established for the Parishes of St. Philip and St. Michael.

*NOTE.—In the opinion of the Commission, the following clause of Section 29 of the School Act, (1871, XIV, 579,) is inconsistent with Section 5 of Article X of the Constitution, and should be omitted:

"If the inhabitants of any School District, at their annual District meeting, shall fail to provide for the raising of a public school tax, then the County School Commissioner of the County in which such District is situated shall be required to withhold from said District that part of the State appropriation derived from the revenue of the State, and to apportion and distribute the same to the other Districts of the County which have complied with the requirements of law."

Kind of pupils admitted. 1857, XII, 604, § 3.

SEC. 2. The said Board shall receive into the said school, free of any charge for tuition, female pupils from every part of the State, not exceeding fifteen to each Congressional District, for the purpose of being trained as teachers: *Provided*, That such applicants shall have the qualifications, and shall stand the examination required of other applicants of equal grade.

Proviso.

Charleston School Commissioners to make regulations for, &c. Ib., § 4.

SEC. 3. The said Board shall have power to conduct the said School, and to make such regulations for its government as they may deem best suited to its beneficial operation, and shall report its condition and expenses annually, with their usual report, to the State Superintendent of Education.

CHAPTER XLI.

AGRICULTURAL COLLEGE.

SEC.
1. Assembly may make Agricultural College branch of State University.
2. State accepts provisions of Act of Congress, donating public land.
3. Governor authorized to obtain land scrip and hold same for use of State.
4. How, and by whom, such scrip to be disposed of.
5. Proceeds to be invested in State or United States bonds.
6. An agent may perform duties of Governor, &c
7. Costs and expenses, how paid.

Assembly may make Agricultural College a branch of State University. 1866, XIII, 426, § 2; Con., Art. X, § 9.

SECTION 1. The General Assembly shall, as soon as practicable, provide for the establishment of an Agricultural College, and shall appropriate the land given to this State, for the support of such a college, by the Act of Congress, passed July second, one thousand eight hundred and sixty-two, or the money or scrip, as the case may be, arising from the sale of said lands, or any lands which may hereafter be given or appropriated for such purpose, for the support and maintenance of such college, and may make the same a branch of the State University, for instruction in agriculture, the mechanic arts and the natural sciences connected therewith.

State accepts provisions of Act of Congress donating public lands. 1868, XIV, 169, § 1.

SEC. 2. The State of South Carolina hereby accepts all the provisions of an Act of the Congress of the United States of America, approved July 2, 1862, and of subsequent Acts, entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and consents to the conditions specified in said Act, especially all those set forth in the fifth Section thereof, and numbered first, second, third, fourth, fifth and sixth.

Governor authorized to obtain land scrip, &c. Ib., § 2.

SEC. 3. The Governor of this State is hereby authorized and directed to take such steps as may be necessary to obtain the land scrip to which the State of South Carolina is entitled under the provisions of the Act of Congress referred to in the foregoing Section; and such scrip, when obtained, shall be held by the Governor for the use of the State until it is disposed of as hereinafter provided.

How and by whom scrip to be disposed of.
Ib., § 3.

SEC. 4. The Governor, Secretary of State and Attorney General are authorized and empowered to receive and sell, and the Attorney General shall assign, at such times and upon such terms as they may deem best for the interests of South Carolina, or as the General Assembly may hereafter by law direct, the whole or any part of the scrip or land warrants issued, or to be issued, to this State by virtue of the Act of Congress referred to in the second Section of this Chapter.

Proceeds to be invested in State or U. S. bonds.
Ib., § 4.

SEC. 5. The proceeds of the sale or sales aforesaid shall be invested either in bonds of the United States, or in six per cent. bearing bonds of this State; the principal of which bonds shall be forever held sacred for the purposes directed in the Acts of Congress aforesaid, and the interest shall be paid over semi-annually in each year, that is to say, on the first of January and the first of July, as directed by law.

An agent may perform duties of, &c.
Ib., 170, § 5.

SEC. 6. The Governor, Secretary of State and Attorney General, may jointly perform and discharge any of the acts, trusts or duties authorized, directed or conferred herein, by any agent by them selected and appointed.

How costs, &c., paid.
Ib., § 6.

SEC. 7. The costs and expenses incurred in carrying into effect the provisions of this Chapter shall be paid out of the Treasury of the State.

CHAPTER XLII.

OF THE UNIVERSITY OF SOUTH CAROLINA.

SEC.
1. Incorporation of the University of South Carolina.
2. Meetings of Board of Trustees; quorum.
3. To transact all business of College, enact rules, &c.
4. Vacancies in University—how filled.
5. Powers of the Trustees.
6. Sites ceded to Trustees.
7. To enclose certain squares.
8. Power of Trustees to issue subpœnas to testify, &c.
9. Power to dismiss officers.
10. Authority to receive and invest scholarship funds.
11. Style and power of the officers.
12. Suspension and restoration of students.
13. Trustees to establish schools and provide for Professors in following Departments:
    1. Ancient languages, &c.
    2. Modern languages, &c.
    3. History, Political Philosophy, &c.
    4. Rhetoric.
    5. Mental and Moral Philosophy, &c.
    6. Mathematics, Engineering, &c.
    7. Natural Philosophy, &c.
    8. Chemistry, &c.
    9. Law.
    10. Medicine.
14. One Professor to be a minister and act as chaplain.
15. Matriculation and entry of schools.
16. University may confer degrees.
17. Degrees to be conferred on law and medical graduates.
18. Graduates in law or medicine may practice.
19. Demonstrator of anatomy.
20. Residences of Professors.
21. Librarian to be Treasurer and Secretary.
22. Bursar
23. One youth from Orphan House to be educated annually.
24. To be allowed to graduate, subject to rules, &c.
25. Maintenance.
26. Vacancies in such scholarships.
27. Appropriation for clothing
28. Free students from each County—how appointed.
29. Salaries; tuition fund.
30. Additional duties of Professors.
31. Chairman of Faculty.
32. Preparatory school; not to receive pecuniary aid from State.
33. Tuition fees; compensation for room rent, &c.
34. Distinctions of race or color.
35. Buildings to be insured.
36. Treasurer to give duplicate returns.

SECTION 1. That the Board of Trustees of the University of South Carolina shall consist of seven members, who shall be elected on joint ballot

Incorporation of the University of South Carolina.
1865, XIII, 317, § 1; 1869, XIV, 203, § 1.

by the General Assembly, and shall hold their offices for the term of four years and until their successors shall be appointed, (no one of whom, during his continuance in office, shall be in any other manner connected with the University.) They shall be a body politic and corporate, in deed and in law, by the name of "The University of South Carolina;" and by the said name they and their successors shall and may have perpetual succession, and be able and capable in law to have, receive and enjoy to them and their successors, lands, tenements and hereditaments, of any kind or value, in fee, or for life or years, and personal property of any kind whatsoever, and also all sums of money of any amount whatsoever, which may be granted or bequeathed to them for the purpose of building, erecting, endowing and supporting the said University in the city of Columbia.

Meetings of Board of Trustees.
1869, XIV, 203, § 2

Quorum.

SEC. 2. The Board of Trustees, when elected, shall meet at Columbia at such time and place as the Governor shall, by summons, direct, and the Governor of the State shall be the President of the Board of Trustees by virtue of his office, and, in his absence, the Board shall elect one of their own number to act as President. The stated meetings of the Board shall be held at least once in three months; but the President of the Board shall have power to assemble it at any time in extra meeting, and it shall be his duty to do so whenever requested by the Faculty of the University. Any five of the Board shall constitute a quorum for the transaction of business.

To transact all business of College, enact rules, &c.
1801, V, 404, § 2.

SEC. 3. That the said Trustees, or a quorum of them, being regularly convened, shall be capable of doing or transacting all the business and concerns of the said University; but more particularly of electing all the customary and necessary officers of the said institution; of removing any of them for neglect or misconduct in office; of prescribing the course of studies to be pursued by the students; and, in general, of framing and enacting all such ordinances and by-laws as shall appear to them necessary for the good government of the said University: *Provided*, The same be not repugnant to the laws of this State nor of the United States.

Vacancy in offices, how filled.
1811, V, 651, § 2.

SEC. 4. No vacancy in the offices of the University shall be filled, unless at the stated meeting of the Board of Trustees: *Provided, nevertheless*, That such vacancy may be filled at any occasional meeting until the stated meeting of the Board of Trustees, and no longer.

Powers of the Trustees.
1801, V, 404, § 4.

SEC. 5. The Trustees of the said University shall and may have a common seal for the business of themselves and their successors, with liberty to change or alter the same, from time to time, as they shall think proper; and by their aforesaid name, they and their successors shall and may be able to implead and be impleaded, answer and be answered unto, defend and be defended, in all Courts of law within this State; and to grant, bargain, sell or assign, any lands, tenements, hereditaments, goods or chattels; and to act and do all things whatsoever, for the benefit of the said University, in as ample a manner as any person or body politic can or may by law.

Sites ceded to Trustees.
1802, V, 438, § 2; 1803, V, 464.

SEC. 6. That the square bounded by Sumter, Divine, Marion and Green streets, also the square bounded by Marion, Blossom, Bull and Divine streets, and the half square adjoining Wade's purchase, bounded by Richardson, Divine, Sumter and Green streets, also two squares of ground bounded by Medium and Pendleton, Sumter and Bull streets, are ceded for the use of the University to the Trustees herein provided for.

To enclose certain squares.
1803, V, 464, § 3.

SEC. 7. That it shall be lawful for the said Trustees to enclose the two squares last mentioned with the squares lying next to the Southward thereof in one enclosure, notwithstanding the intervening streets.

Power of Trustees to issue subpœnas, &c.
1831, VIII, 373, § 10.

SEC. 8. The Board of Trustees of the University of South Carolina are invested with full power and authority, in all investigations where they may deem it necessary to the interest of the University, by subpœna, rule and attachment, to compel witnesses to appear and testify, and papers to be produced and read before the Board.

To dismiss officers.
Ib., § 11.

SEC. 9. The Board of Trustees are also invested with full power and authority, whenever they may deem it essential to the interest of the University, to dismiss from office any officer of said institution.

To receive and invest funds.
1853, XII, 305, § 2.

SEC. 10. The Trustees of the said University are hereby authorized to receive, in behalf of the State, and to invest to the best advantage, in their discretion, all moneys, funds and securities which may, from time to time, be offered for the foundation of scholarships in said University.

Style and power of officers.
1801, V, 401, § 3; 1865, XIII, 314, § 8.

SEC. 11. The head of the said University shall be styled "The Chairman of the Faculty," and the masters thereof shall be styled "The Professors;" but Professors, while they remain such, shall never be capable of holding the office of Trustee; and the various Professors appointed to give instruction in the several schools of the University shall constitute a Board, to be called "The Faculty of the University of South Carolina," which Faculty shall have the power of enforcing the ordinances and by-laws adopted by the Trustees for the government of the pupils, by rewarding or censuring them, and, finally, by suspending such of them as, after repeated admonitions, shall continue disobedient or refractory, until a determination of a quorum of Trustees can be had; but it shall be only in the power of a quorum of Trustees, at their stated meeting, to expel any student of the said University.

Suspension and restoration of students.
1811, V, 651, § 3.

SEC. 12. The Faculty are required to report the whole of their proceedings against any student who shall be suspended, together with the cause of such suspension, to the Board of Trustees, at their next stated meeting after such suspension; and the said Board of Trustees are authorized and empowered, upon a review of the sentence of any student, to restore such student to his standing in the University, if it shall appear to the said Board of Trustees proper to do so.

Trustees to establish schools and provide for Professors in certain departments.
1865, XIII, 33, § 2; 1866, XIII, 412, § 1.

SEC. 13. The Board of Trustees of The University of South Carolina shall establish schools and provide for competent Professors in the following departments, to wit:

1. A School of Ancient Languages and Literature.
2. A School of Modern Languages and Literature.
3. A School of History, Political Philosophy and Economy.
4. A School of Rhetoric, Criticism, Elocution and English Language and Literature.
5. A School of Mental and Moral Philosophy, Sacred Literature and Evidences of Christianity.
6. A School of Mathematics, Civil and Military Engineering and Construction.
7. A School of Natural and Mechanical Philosophy and Astronomy.
8. A School of Chemistry, Pharmacy, Mineralogy and Geology.
9. A School of Law, with one Professor.
10. A School of Medicine, with two Professors.

One Professor to act as Chaplain
1865, XIII, 313, § 3

SEC. 14. The Board of Trustees shall take care that one of the Professors provided for shall be a Minister of the Gospel, who shall also be charged with the duties of Chaplain to the said University, under such regulations and with such additional salary as may be fixed by the said Board.

Matriculation and entry of schools.
Ib., § 4.

SEC. 15. No student shall matriculate until he shall have attained the age of fifteen years, and shall agree to enter at least three of the schools provided for: *Provided, however,* That in special cases the Chairman of the Faculty may, at his discretion, permit any applicant to take less than three schools.

Degrees.
1805, V, 494, § 4.

SEC. 16. The said University shall have full and ample power to confer degrees on students or such other persons as may be deemed qualified to receive the same.

Degrees to be conferred on Law and Medical graduates.
1865, XIII, 413, § 5.

SEC. 17. The Board of Trustees of the University, on the recommendation of the Chairman of the Faculty and of the Professors of the Schools of Law and Medicine, shall confer the degrees of Bachelor of Law and of Doctor of Medicine upon the graduates of the said schools, for satisfactory attainments in all the subjects of instruction in their respective schools.

Graduates may practice.
Ib., § 6.

SEC. 18. The graduates of each of these schools, upon whom the said degrees may be conferred, shall be entitled to pursue and practice their respective professions.

Demonstrator of Anatomy.
Ib., 7.

SEC. 19. The Faculty have authority to license a Demonstrator of Anatomy and other persons of suitable attainments, character and habits, to give private instruction in aid of the public teachings in any of the schools of the University. Said licentiates shall not, without special leave of the Faculty, receive pupils who are not members of the school or schools for which they are licensed, nor give instruction on

subjects not embraced in the plan of the same. The employment of the licentiates to be at the option of the students, and the compensation a matter of private arrangement.

Residences of Professors. 1865, XIII, 314, § 6.

SEC. 20. Each Professor hereinbefore provided for shall be allowed to occupy a house belonging to the corporation, free of rent.

Librarian to be Treasurer and Secretary. Ib., § 7.

SEC. 21. The Board of Trustees shall appoint a Librarian, who shall act as Treasurer of the corporation and Secretary to the Faculty, and perform such other duties and receive such salary as the Board of Trustees may prescribe.

Bursar. Ib., § 11.

SEC. 22. The Board of Trustees may, if deemed advisable, elect a Bursar, who shall hold his office upon such terms and conditions, perform such duties, and be entitled to receive such salary or compensation, as the said Board may prescribe.

Youth from Orphan House to be educated annually. 1811, VII, 132, § 1.

SEC. 23. The Commissioners of the Orphan House in the city of Charleston are authorized and empowered to select, annually, one youth from the number educated and maintained on the bounty of that institution, for the purpose of completing his education at the University of South Carolina, graduating and receiving the degrees conferred at the said University.

To be allowed to graduate, subject to rules, &c. Ib., § 2.

SEC. 24. The Trustees, the Chairman, and the Professors, are directed to receive and cause to be educated and allowed to graduate at The University of South Carolina, the boys to be selected as provided in the preceding Section; subject, nevertheless, to all the rules, orders and regulations of the said University.

Maintenance. Ib., § 3.

SEC. 25. All expense incident to the education and maintenance of the said boys so to be selected, (clothing excepted,) shall be defrayed from the amount annually appropriated by the Legislature to the said University.

Vacancies in such scholarships. Ib., § 4.

SEC. 26. As the youths so chosen shall graduate, or in case of the death, expulsion or removal of them, or any of them, the Commissioners aforesaid are authorized and empowered to fill any vacancy occasioned thereby.

Appropriation for clothing. Ib., 133, § 5.

SEC. 27. The sum of one hundred and forty dollars is hereby annually appropriated for the clothing of each of the said boys while they remain at the said University: *Provided, nevertheless,* That they shall not continue beyond the term usually allowed to candidates for the first degree.

Free students from each County.
1865, XIII, 314, § 10; 1869, XIV, 204, § 7.

SEC. 28. There shall be admitted to the University one student annually from each County in the State, who shall be entitled to entrance into as many as three of the schools, not including either the school of law or medicine, without the payment of tuition fees. Such student shall be appointed by the Governor, on the nomination of the delegation in the General Assembly from the County in which the students shall respectively reside; the nomination to be made by the delegation in accordance with such regulations as the Governor may prescribe: *Provided*, That every student thus appointed shall show, upon examination before the Faculty, the degree of proficiency required of other students for admission into the University, and shall be otherwise admissible, according to the regulations governing the University.

How appointed.

Salaries; Tuition fund.
1869, XIV, 204, § 4.

SEC. 29. To each of the Professors shall be paid, from the Treasury of the State, quarterly, an annual salary of two thousand dollars, and to the Demonstrator of Anatomy an annual salary of one thousand dollars. There shall also be paid to each Professor, from "the tuition fund," as additional salary, the sum of five hundred dollars, which shall be paid at the expiration of the University term. If the tuition fund shall not be sufficient therefor, the Treasurer shall apportion the same among the Professors, and should there be, at the expiration of any University term, a surplus of "the tuition fund," it shall be passed by the Treasurer into the University fund, to be applied, under the direction of the Trustees, to the general purposes of the University.

Additional duties of Professors.
Ib., § 5.

SEC. 30. The Trustees shall have authority to assign any Professor to additional duties in any other school or schools without additional salary.

Chairman of Faculty.
1865, XIII, 314, § 8; 1869, XIV, 204, § 5.

SEC. 31. All Professors shall be members of the Faculty of the University; and one of the members shall be chosen, annually, by a vote of the Faculty, to act as Chairman of the Faculty.

Preparatory school.
Ib., § 8.

SEC. 32. The Board of Trustees shall have the authority to establish, in connection with the State University, a preparatory school, under such rules and regulations as they may think best to adopt: *Provided*, That a course in the University shall not be made a condition of admission into said school: *And provided, further*, That said school shall at no time receive any pecuniary aid from the State.

Not to receive pecuniary aid from State.

Tuition fees.
Ib., 203, § 3; 1865, XIII, 313, § 4.

SEC. 33. The tuition fees to be paid by the students in the several schools shall be as follows: For entrance into the school of law or medicine, fifty dollars, with the privilege of entering any of the other schools, upon the payment of fifteen dollars for each school; for entrance into three or more of the other schools, fifteen dollars for each school; for entrance into any two of the other schools (if a student shall enter but two,) twenty dollars; and for entrance into any one of the other schools (if a student shall enter but one,) twenty-five dollars. The tuition fees shall be paid into the Treasury of the University in advance, and shall

be set apart and known as the "tuition fund." The compensation for room rent, use of Library, and such damages to the property of the corporation as may be done by each student, shall be regulated by the Board of Trustees.

Compensation for room rent, &c.

SEC. 34. Neither the said Board of Trustees, nor the Faculty of the University, shall make any distinction in the admission of students or the management of the University, on account of race, color or creed.

Distinctions of race or color.
1869, XIV, 263, § 1; Con., Art. X, § 10.

SEC. 35. The Comptroller General is authorized and required, annually, to insure against fire the University buildings at Columbia.

Buildings to be insured.
1819, VI, 139, § 15

SEC. 36. It shall be the duty of the Treasurer of the University, in making his returns to the Comptroller General, to make out and deliver to him, at the same time, fair duplicates thereof.

Treasurer to give duplicate returns.
Ib., § 14.

CHAPTER XLIII.

OF THE DEAF AND DUMB AND THE BLIND.

SEC.
1. Board of Commissioners of the Deaf and Dumb and the Blind; Chairman; Secretary.
2. Meetings; compensation.
3 Duties of Secretary.
4. Powers of Board.
5. Appropriation for education of indigent deaf and dumb.
6. Sum for each not to exceed $150 annually.
7 Indigent blind children.
8. Power of Commissioners with reference to appropriation.
9 To draw appropriation
10. Report of Commissioners.

SECTION 1. His Excellency the Governor, the Comptroller General, and the State Superintendent of Education, are constituted a Board, to be known by the name, style and title of the Board of Commissioners of the Deaf and Dumb and the Blind, and are hereby vested with the supervision and control of the affairs and government of the South Carolina Institution for the Education of the Deaf and Dumb and the Blind, located at Cedar Springs, Spartanburg County. The Governor shall be *ex officio* Chairman, and the State Superintendent of Education Secretary of the said Board.

Board of Commissioners.
1871, XIV, 609, § 1; Con., Art. X, § 7.

Chairman; Secretary.

SEC. 2. The said Board of Commissioners shall meet annually, on the first Monday in November, at the office of the Governor, and at such other times and places as the Chairman of the Board shall direct. Said Board shall receive no compensation for their services.

Meetings; pay.
Ib., 610, § 2.

Duties of Secretary. Ib., § 3.

SEC. 3. It shall be the duty of the Secretary of said Board to visit the South Carolina Institution for the Education of the Deaf and Dumb and the Blind at least twice during each school session thereof, in order to notice the condition of the institution, the efficiency and faithfulness of the instructors and officers, and the progress of the pupils thereof, and to submit to the said Board written reports of such visits. He shall be allowed actual traveling expenses incurred in making such visits, the same to be subject to the approval of the other members of the Board, and be paid from the funds appropriated for the support of the institution.

Powers of Board. Ib., § 4.

SEC. 4. The said Board of Commissioners shall have power to appoint a principal and such teachers and officers of the institution as they shall deem requisite, and to fix their salaries; to establish conditions, forms and regulations for the admission of pupils to the institution, and to prescribe such rules and by-laws as they, in their judgment, shall deem necessary for the management and good government of the institution.

Appropriation for education of indigent deaf and dumb. 1834, VI, 513, § 3; 1847, XI, 435, § 1.

SEC. 5. The sum of twenty-five hundred dollars is hereby annually appropriated to defray the expenses of educating so many deaf and dumb persons, between such ages as the Commissioners, in their discretion, shall indicate, born of parents citizens of this State, as shall apply to receive the benefit of this provision, and as shall be judged by the Commissioners not able to meet, out of their own means, all the expenses of their support and education.

Sum for each not to exceed $150 annually. 1852, XII, 187, § 1.

SEC. 6. The sum which shall be allowed for the board, tuition, and all incidental expenses, of one deaf and dumb person, for one year, (except traveling expenses, clothing and medical attendance,) shall not exceed one hundred and fifty dollars; and, as to the expenses excepted, the Commissioners shall take care to place them upon the most economical scale.

Indigent blind children. 1847, XI, 436, § 2.

SEC. 7. The said Commissioners shall be authorized, to the extent of one-half the appropriation made by Section 5 of this Chapter, and subject to same provisions, to send such to asylum, for education, such blind children as may be deemed appropriate objects.

Power of Commissioners with reference to appropriation. 1834, VI, 514, § 5.

SEC. 8. The whole or part of the expenses of the several applicants shall be paid, according to the opinion which the Commissioners may form as to the pecuniary condition of the applicants; and, in case of more applications than would exhaust the annual appropriation, the Commissioners shall make selection according to their opinion of the deserts of the various applicants.

To draw appropriation. 1848, XI, 524, § 1.

SEC. 9. The Commissioners shall have power to draw the annual appropriation herein mentioned, and to send so many of the deaf and dumb and the blind as can be supported by the annual appropriation, and as they shall deem proper objects of public bounty, to such asylum.

SEC. 10. The Commissioners shall annually report to the Legislature an exact statement of their various proceedings during the past year, showing precisely how they disbursed the money expended, the names of the persons who have received the bounty, the ages and places of residence of such persons, and information as to their progress; which statement shall be accompanied by the vouchers of all sums expended.

Report of Commissioners.

1834, VI, 534, § 6.

TITLE XI.

OF WAYS, BRIDGES, FERRIES, FENCES, DAMS AND DRAINS.

CHAPTER XLIV. *Of Highways.*
XLV. *Of the Repair of Highways and Bridges.*
XLVI. *Of Water Courses and Cuts.*
XLVII. *Of Bridges, Turnpikes and Ferries.*
XLVIII. *Of the State Road.*
XLIX. *Of Dams and Drains.*
L. *Of Fences.*

CHAPTER XLIV.

OF HIGHWAYS.

SEC.
1. Navigable streams declared to be highways.
2. Special commissioners to be appointed to lay out roads.
3. Decisions may be reviewed; opening roads, &c.
4. Highway Surveyors to repair roads.
5. Width of roads.
6. Roads to be posted and numbered.
7. Penalty for neglect to post and number roads.
8. Gates.
9. Interfering with gates.
10. Ditches and canals across highways.
11. Prosecution of unauthorized persons for altering course of roads.
12. Discontinuing roads.
13. Gates to be put up in roads on the islands.
14. Regulations respecting such gates.
15. Penalty for damaging roads.
16. Penalty for obstructing roads, &c.
17. Performance of road duty in towns or villages.

SECTION 1. That all streams which have been rendered, or can hereafter be rendered, capable of being navigated by rafts of lumber or timber, by the removal therefrom of accidental obstructions, and all navigable water courses and cuts, are hereby declared navigable streams; and such streams shall be common highways, and forever free, as well to the inhabitants of this State as to the citizens of the United States, without any tax or impost therefor, unless the same be expressly provided for by the General Assembly; and if any person shall obstruct the same, otherwise than as hereinafter provided, such person shall be deemed guilty of a nuisance, and such obstruction may be abated as other public nuisances are by the laws of this State.

Navigable streams declared to be highways.

1853, XII, 305, § 1; Con., Art. VI, § 1.

Commissioners to be appointed to lay out highways. 1868, XIV, 130, § 14-6; Con., Art. IV, § 19; 1825, IX, 559, § 5. 10 Rich., 389.

Proviso.

SEC. 2. The Boards of County Commissioners have power, and they are hereby authorized, to appoint Special Commissioners to lay out public highways in those cases where they shall be satisfied that the road applied for is important: *Provided, however*, That the said Commissioners shall have no power to open any new road until they shall have given three months' previous notice, by advertisements, in the settlement through which the intended road is to be opened.

Opening roads, &c. 1868, XIV, 131, § 6.

SEC. 3. The decisions made by said Special Commissioners may be appealed from, and reviewed in the same manner, and with like authority, as is allowed by law from the acts of the County Commissioners. The work so to be laid out by such Special Commissioners, or the same as settled on appeal, shall be recorded, opened and worked as public highways of the towns, cities or Counties in which they are respectively situated, in the same manner as other highways of the town, city or County are required by law to be recorded, opened and worked.

Highway Surveyors; their duties, &c.; repair roads. 1825, IX, 559, § 5; 1868, XIV, 131, § 16; Con., Art. IV, § 19. 3 Brev., 83; 4 McC., 5; 2 Bail., 314; 1 Rich., 335; 11 Rich., 485; 10 Rich., 303; 1 N. & McC., 5; 2 N. & McC., 526; 1 N. & McC., 387.

SEC. 4. The County Commissioners of the several Counties shall divide their Counties into highway districts, each district to contain not less than ten miles of public highways, nor more than forty miles, to be convenient for repairing highways, and may, from time to time, alter the same; and they shall appoint for each highway district a Surveyor of Highways, to superintend the expenditure of the highway tax and money appropriated for improvement of highways in his district, and to take charge of, and keep in repair, at all times, the highways in his district.

Width of roads. 1825, IX, 563, § 21. 1 Speers, 162.

SEC. 5. That it shall be the duty of the County Commissioners in their respective Counties to cause all roads heretofore laid out or hereafter to be laid out, leading directly from any part of this State to Charleston, Georgetown, Columbia, Camden, Hamburg or Cheraw, to be made and cleared thirty feet wide, and all other roads shall be cleared twenty feet wide.

Roads to be posted and numbered. Ib., § 22; 1871, XIV, 666, § 1.

SEC. 6. That each and every Surveyor of Highways shall cause all the roads in their respective districts to be posted and numbered, and at each fork of said roads a pointer to be placed, declaring the direction of such roads. And if any person or persons shall cut down, burn or deface any mile post, or stone, or pointer, erected as aforesaid, he, she or they, upon conviction thereof, shall forfeit and pay the sum of ten dollars, to be recovered as hereinafter directed.

Penalty for neglect to post and number roads. 1840, XI, 269, § 15; 1871, XIV, 666.

SEC. 7. That any Surveyor of Highways neglecting to cause said roads to be posted and numbered, and to have pointers erected as aforesaid, shall be liable to pay the sum of ten dollars for each and every such neglect, to be recovered by indictment in the Court of General Sessions of the County wherein the same occurs, to be paid, when collected, to the Board of County Commissioners of such County: *Provided*, That no Surveyor shall be liable to said penalty who puts up said pointers at such times as he works his road division.

Gates may be placed on private roads. 1855, XII, 408, § 1. 1 Rich., 390; 11 Rich., 529.

SEC. 8. It shall be lawful for any citizen of this State, over whose land any road may pass, other than a public highway, to erect gates thereon, and that the persons owning or erecting such gates shall be liable to be indicted for a nuisance if they fail to keep them in good order.

Penalty for interfering with. Ib., § 2.

SEC. 9. In case any person or persons shall interfere with, injure, destroy or willfully leave open any such gates, such person or persons shall be liable to indictment as for a misdemeanor.

Ditches and canals across highways. 1856, XII, 507, § 15

Proviso.

SEC. 10. Any inhabitant of this State shall have power, for the purpose of draining his or her lands, to cut a ditch or ditches, canal or canals, across any public highway in this State: *Provided*, Such person shall be bound to bridge such ditch or canal, under the direction of the Surveyor of Highways for the district in which such ditch or canal shall be cut, and keep the same in good repair for one year, after which time the Highway Surveyor shall take charge of such ditches or canals and keep them open and in repair.

Prosecution of unauthorized persons for altering course of road. 1797, IX, 379, § 33.

SEC. 11. That it shall be the duty of the Solicitor of the Circuit in which any part of the high road may have been or shall be diverted from its original course, unless by authority of law, and he, the said Solicitor, is hereby enjoined and required, on information of any two persons, to commence a suit against any person or persons who may have altered or shall hereafter alter the road without authority, in order to compel the parties offending, as soon as may be, to restore, at their own expense, the high road in its course, as established by law.

Discontinuing roads. 1830, IX, 587, § 9.

SEC. 12. That the Board of County Commissioners in each and every County shall have power to discontinue any road now established or hereafter to be established by law, after three months' public notice has been given, by advertisement, in the settlement through which the road proposed to be discontinued passes: *Provided*, That no objection shall be made thereto. But, in case any objection should be made to the closing up or discontinuing of the said road, then the same shall be kept open and repaired until discontinued according to law.

Gates to be put up in roads on certain islands. 1821, IX, 509, § 1.

SEC. 13. It shall be lawful for the County Commissioners in the Counties comprising James's Island, John's Island, Wadmalaw, Edisto, St. Helena, Lady's Island and Hilton Head, to authorize and permit such persons as they, in their discretion, may think proper, to put up gates on the public roads that may pass through their grounds; such permission in every case to expire, unless renewed, at the end of two years: *Provided*, That no new gate be allowed unless, in the judgment of the Commissioners, the same be necessary.

Regulations respecting such gates.
Ib., § 2.

SEC. 14. If any person shall willfully cut or destroy any gate which may be put up by the authority of the Commissioners in pursuance of the last Section, whilst the same is kept in good order, such person shall be fined in the sum of twenty dollars, to be recovered by warrant of distress under the hands of any two of the Commissioners for the County. And if any person shall willfully leave open any gate as aforesaid, such person shall be liable to be fined in the sum of twenty dollars, to be recovered as aforesaid.

Penalty for damaging roads.
1788, IX, 311, § 11; 1824, IX, 545, § 1. 1 McM., 44; 2 Strob, 61; 11 Rich., 253; 1 Spears, 17; 6 Rich., 396.

SEC. 15. If any person shall willfully and maliciously destroy, injure, or in manner hurt, damage, impair, or obstruct any of the public highways, or any part thereof, or any bridge, culvert, drain, ditch, causeway, embankment, wall, toll gate, toll house, or other erection belonging thereto, or any part thereof, the person so offending shall, upon conviction thereof, be imprisoned not more than three months nor less than one month, and pay a fine not exceeding five hundred dollars nor less than twenty dollars, at the discretion of the Court before which the conviction shall take place, and shall be further liable to pay all the expense of repairing the same.

Penalty for obstructing roads, &c.
1824, IX, 545, § 2.

SEC. 16. If any person shall cause any obstruction to be placed in any part of the said highways, or on any bridge or causeway thereof, so as to obstruct or render dangerous or difficult the passage of carriages or other traveling thereon, and shall not immediately remove the same when required, he shall be deemed guilty of a nuisance, and, on conviction thereof, shall be fined in a sum not exceeding ten dollars, nor less than two dollars, and shall be further liable for the expenses of removing the said nuisance.

Performance of road duty in towns and villages.
1864, XIII, 251, § 12.

SEC. 17. That in the event the corporators of any incorporated town or village in this State shall refuse or neglect to appoint and organize the officers required by their Act of incorporation, or refuse or neglect to carry out, in good faith, the obligations imposed by their Act of incorporation, in regard to roads or streets, the County Commissioners, in whose County such town or village, or other incorporated body, shall be located, shall be authorized and required to take charge of all such roads and streets, together with all such road hands as may reside within the limits of such incorporation, and require the same performances of all residents within such limits as they are authorized to do within their Counties generally.

CHAPTER XLV.

Of the Repair of Highways and Bridges.

SEC.
1. Highway Districts; Surveyor; duty of Surveyor.
2. County Commissioners may levy taxes for repair of highways and bridges.
3. Surveyor to control the payment of taxes in labor.
4. Workmen subject to Surveyor's directions.
5. Disposition of taxes payable in labor.
6. Extraordinary repairs.
7. Surveyors to repair highways; penalty.
8. Persons refusing to work on highways; penalty.
9. Tax payable in money, when.
10. Disposition of taxes payable in money.
11. Surveyor to keep account and return same to County Commissioners.
12. Surveyor's bond liable, when
13. Persons injured on account of deficiency of roads, &c.
14. Damages, how recovered.
15. Penalty for neglect; County liable.
16. Rate at which labor shall be valued.
17. Persons liable to work; commutation; refusal; penalty.
18. Working tools to be provided
19. Fine for injury done to a road by the breaking of a mill dam.
20. Timber, &c, may be taken by Surveyor. Penalty for obstructing, &c.
21. Shade trees, &c, not to be cut down, nor stone, &c., taken from private grounds.
22. Road labor and its equivalent.
23. Disposition of certain penalties.
24. Compensation of Surveyors.
25. Removal of persons liable to road duty—effect.
26. What to be deemed a residence.
27. Repair of bridges between Counties; division of bridges; rebuilding.

SECTION 1. That the County Commissioners of the several Counties shall divide their Counties into highway districts, each district to contain not less than ten miles of public highways, nor more than forty miles, to be convenient for repairing highways, and may, from time to time, alter the same; and they shall appoint for each highway district a Surveyor of Highways, to superintend the expenditure of the highway tax and money appropriated for improvement of highways in his district, and to take charge of, and keep in repair, at all times, the highways in his district. Said Surveyor of Highways shall be removable at pleasure. He shall be responsible to the County for any damages which may be sustained within his district, through fault or neglect in the discharge of his duty. Said Surveyor of Highways shall give bond to the County, with good and sufficient sureties, to be approved by the County Commissioners, in double the amount of money to be expended in his district, for the faithful discharge of his duties.

Highway districts.
1871, XIV, 666, § 1.

Surveyor.

Duty of Surveyor.

SEC. 2. That, for the purpose of keeping in repair highways and bridges, the County Commissioners of each County shall, on or previous to the first day of January, assess a tax of eighteen cents, if so much be necessary, on every hundred dollars of the lists of the County, to be paid in money or labor, at the option of the tax payer, and laid out in repairing highways and bridges; and they shall, annually, on or before the said first day of January, make out a tax bill for each Surveyor of Highways, containing the amount of the tax to be laid out by him in his district, with the amount of each person's tax annexed to his name, accompanied with a warrant, signed by the Chairman of the Board, authorizing such Surveyor to collect such tax; and they shall deliver the several tax bills to the respective Surveyors, and take their receipt for the same.

County Commissioners may levy taxes for repair of highways and bridges.
Ib., 667, § 2.

Surveyor to control the payment of taxes in labor.
Ib., § 3.

SEC. 3. The Surveyors of the several highway districts, after receiving their several tax bills and warrants, shall proceed to give notice to the several persons liable to pay taxes in their districts, of the amount of their taxes, and of the time and place in which, and the teams, carriages and tools with which, they are required to pay their taxes in labor; but no person shall be liable to furnish any team, carriage or tool of which he is not the owner, except hoes, shovels or spades. Such notice may be given to all persons resident in the highway district, either personally or by written notice left at their usual residence; to non-residents by a written notice left with or at the residence of their tenants, agents, or persons having the care of their property; all of which notices shall be at least three days, and, in case of persons residing out of the highway district, at least ten days before the time appointed for them to commence their work; and, if such non-residents shall have no tenant or agent in the town, notice may be posted up in some public or conspicuous place in the district; and the Surveyors shall make and keep a minute of the time and manner in which the notice shall be given.

Workmen subject to Surveyor's directions.
Ib., § 4.

SEC. 4. Any person, after he has commenced working in payment of his highway tax, shall be subject to the direction of the Surveyor, as to the times when, and the place where, his taxes shall be paid and laid out in labor.

Disposition of taxes payable in labor.
Ib., § 5.

SEC. 5. That at least three-quarters of the highway tax in any highway district, payable in labor, shall be collected and laid out between the 15th day of January and the 1st day of May, and the remainder between the first day of August and the first day of October, in each year, except as hereinafter provided.

Extraordinary repairs.
Ib., § 6.

SEC. 6. On any extraordinary occasion, when any bridge or highway shall be destroyed or impaired so as to require immediate repairs, or shall be obstructed so as to require immediate labor to remove the obstruction, it shall be the duty of the Surveyor, forthwith, to cause the highway or bridge to be repaired, or the obstruction removed; and he may, for that purpose, call upon and notify any inhabitants of the district to afford him the necessary aid, or may hire other laborers, or employ other means to open or repair the highways and bridges; and, in such case, the notice shall be deemed sufficient to any person owing taxes, payable in the district, in order to make him liable for neglect to pay his taxes in money, if such notice shall be given six hours previous to the time when he is required to appear and labor. If any person shall, in such case, perform labor more than sufficient to pay the taxes due from him, or, if a person not indebted for taxes shall perform labor, the amount of such labor, or the balance, may be accredited to such person towards his highway tax the succeeding year.

Surveyor failing to repair highways; penalty.
Ib., 668, § 7.

SEC. 7. If, on any such occasion as specified in the preceding Section, any Surveyor shall, for the space of twelve hours after application made to him for that purpose by any citizen residing within his district, neglect to call upon the inhabitants of his district, or use the proper means to repair or open the highway or bridge which may be out of repair or obstructed, he shall forfeit and pay to the County Commissioners of the County, to be expended in repairing highways in such district, the sum of twenty-five dollars, to be collected in the name of the County, unless such Surveyor shall show sufficient reason for such neglect.

Persons refusing to work on highways.
Penalty.
Ib., § 8.

SEC. 8. If, in any such case, any inhabitant of the district whose name shall be on the tax bill of such district, whether any tax shall be due from him or not, shall, for the space of six hours after being called on or notified by the Surveyor for that purpose, without sufficient reason, neglect to turn out and assist in repairing or opening such highway or bridge as he shall be required, he shall forfeit and pay to the County the sum of three dollars, to be collected and expended as provided in the preceding Section.

Tax payable in money, when.
Ib., § 9.

SEC. 9. If any person against whom a Surveyor shall have a tax bill, payable in labor, shall neglect, after being notified, as provided in this Chapter, to work out his tax, he shall be liable to pay his tax in money; and the Surveyor shall proceed to collect the same, and shall have all the power the County Treasurer has by law to collect State and County taxes; and he shall proceed in the same manner in the collection, and shall have the same fees.

Disposition of taxes payable in money.
Ib., § 10.

SEC. 10. It shall be the duty of each Surveyor of Highways to lay out, in such manner as he may think beneficial, in making and repairing highways in his district, all moneys collected by him in his tax bill, or received in any other way for that purpose

Surveyor to keep account and return same to County Commissioners.
Ib., § 11.

SEC. 11. Each Surveyor shall keep full and regular accounts of all labor performed, and all moneys received and expended in his district, out of the labor that may have been performed by any persons over and above their taxes, and make return of his accounts to the County Commissioners, annually, in the month of November. And it shall be the duty of each Surveyor of Highways to pay over to the County Commissioners of the County any moneys which may remain in his hands unexpended; and any moneys which may be so received from the Surveyor shall be paid over by the County Commissioners to the succeeding Surveyor, to be expended in the same district. And when any persons shall have overpaid their taxes, in labor or otherwise, the balance shall be accredited to such persons on their taxes for the succeeding year. When any Surveyor of Highways shall resign or be removed from office, he shall also make such return to the County Commissioners as required in this Section, and turn over all moneys, books and papers pertaining to his office to the County Commissioners, or to his successor in office, as they may direct.

Surveyor's bond liable, when
Ib., § 12.

SEC. 12. If any Surveyor shall have failed to collect the taxes contained in his tax bill, as required by law, or if he shall fail to pay over any moneys which he may have collected and not expended, the County Commissioners shall proceed against him upon his official bond.

Persons injured on account of deficiency of roads, &c
Ib., § 13.

SEC. 13. If any person receive or suffer bodily injury, or damage in his property, through a defect or want of repair or sufficient railing in or upon a highway, causeway or bridge, he may recover, in an action, of the County by law obliged to repair the same, the amount of damage sustained thereby, if such County had reasonable notice of the defect, want of repair, or of insufficient railing, or if the same had existed for the space of twenty-four hours previous to the occurrence of the injury or damage; but no such damage shall be recovered by a person whose carriage and load thereon exceeds the weight of six tons.

Damages—how recovered
Ib., § 14.

SEC. 14. If, before the entry of an action provided for in the preceding Section, the County Commissioners tender to the plaintiff the amount which he would be entitled to recover, together with all legal costs, and the plaintiff does not accept the same, and does not recover upon his trial more than the sum so tendered, the defendant shall recover costs.

Penalty for neglect. County liable.
Ib., § 15

SEC. 15. If a County neglect to repair any of the highways or bridges which, by law, it is obliged to keep in repair, or neglect to make the same safe and convenient, such County shall be liable to indictment and fine, as the Court in its discretion may order. The fine imposed in such case shall be certified to the County Commissioners by the Clerk of the Court, and they shall proceed to collect the same from the Surveyor or Surveyors of the highway district or districts charged by this Chapter with the duty of superintending and keeping said highway or highways in repair; the sum, when collected, shall be laid out in the repair of highways and bridges in the County.

Rate at which labor shall be valued.
Ib., § 16.

SEC. 16. Each person who shall furnish work on the highways in payment of his highway tax, assessed by the County Commissioners, shall be allowed, for a good hand, at the rate of ten cents for each hour. It shall be the duty of the Highway Surveyor of the district to make such allowance for the use of teams, carriages and tools, as shall be equitable and just.

Persons liable to work.

SEC. 17. That all able-bodied male persons between the ages of eighteen and forty-five years shall be liable, annually, to perform on the public highways and roads not less than three and not more than five days' labor, under the direction of the Highway Surveyor of their district: *Provided*, That if any person, being warned to work upon the highways, shall pay to the Highway Surveyor, in the district in which he may reside, the sum of one dollar per day for each day required, the same shall be received in lieu of such labor, and shall be applied by the said Highway Surveyor to the construction and repair of the highways and roads in the district. And should any person refuse either to work on the highways and roads or to pay the fine imposed as a penalty for refusing

Commutation

Refusal.

Penalty.
Ib., § 17.

to work upon the highways and roads, according to the direction of said Commissioners, the said persons shall be deemed guilty of a misdemeanor, and, on conviction thereof, punished by imprisonment in the County jail for the same, for a term not exceeding thirty days.

Working tools to be provided.

Ib., 58; 1825, IX, 562, § 18; 1870, XIV, 508, § 4.

SEC. 18. That each Surveyor, in his respective district, is hereby authorized to prescribe what tool or tools each hand shall furnish himself with: and if any man liable to work on any road, having been regularly warned, shall fail so to be equipped, he shall forfeit and pay the sum of fifty cents: *Provided*, That in all cases where it shall be shown, to the satisfaction of the Surveyor, that the person complained of was not in possession of the tool or tools required, no forfeiture shall be exacted, but any other suitable tool or tools shall be received in lieu thereof.

Fine for injury done to road by breaking of a mill dam.

1825, IX, 563, § 20; 2 Spears, 693.

SEC. 19. That where any public road shall be injured in consequence of the breaking of any mill dam, or by letting off water from any gate or gates, it shall be the duty of the owner or owners of such mill pond or dam to repair such injury, when thereunto required by the Highway Surveyor of the district in which the injury shall happen, within a reasonable time from such notice; and, in default thereof, the owner or owners of such mill dam or pond shall be fined at the discretion of the Court, not exceeding one hundred dollars, nor less than twenty.

Timber, &c., may be taken by Surveyors.

SEC. 20. That the Highway Surveyors, according to their respective districts, shall have full power to cut down and make use of any timber, wood, earth or stone, in or near the roads, bridges and causeways, for the purpose of making and repairing the same, as to them shall seem necessary, making just compensation therefor, should the same be demanded. And if any person or persons, by themselves or servants, shall, by any ways or means, hinder, forbid or oppose the said Surveyors, or either of them, their servants or workmen, from cutting down and making use of any timber, wood, or stone, or earth, in or near the said roads, bridges or causeways, for the purpose of making or repairing the same, or shall in any manner stop up or obstruct the passage on the said roads, bridges or causeways, by gates, ditches, fences, or any other obstructions, (except where they are authorized by law so to do,) or shall hinder, forbid or threaten any traveler from traveling any public road, every person, for every such offence, shall forfeit the sum of fifty dollars, to be recovered by indictment at law.

Penalty for obstructing, &c.

Ib., 562, 16; 1788, IX, 510, 9. 3 Hill, 400; 2 Rich., 619.

Amended by Com'rs to conform to Con., Art. 1, § 23.

Shade trees, &c., not to be cut down, nor stone, &c., taken from private grounds.

1825, IX, 563, § 23.

SEC. 21. That the powers vested in the Highway Surveyor, by Section 20 of this Chapter, shall not be construed to extend to authorize them to cut down any timber or trees reserved by the owner in clearing his land, or planted for the purpose of shade and ornament, either in the fields, around the springs, or about the dwelling house and appurtenances, nor the cutting down any rail timber, when other timber adequate to the purpose may be procured at or near the same place, or to take any stone or earth from within the grounds of any person, enclosed for cultivation, without the consent of the owner of the same.

Road labor and its equivalent
1870, XIV, 398, § 6.

SEC. 22. In all cases a man, horse, plough and cart, shall be equivalent to three days' labor; a man, wagon and two horses shall be equivalent to five days' labor; and so in proportion for all teams and wagons used by and under the directions of said Highway Surveyor.

Disposition of certain penalties
1825, IX, 564, § 24.

SEC. 23. That all the fines, forfeitures and penalties imposed by Sections 18, 19 and 20 of this Chapter, or sums of money arising from the sale of estrays, shall belong to that highway district within whose limits the fine, penalty or forfeiture may be imposed, or estrays sold, and constitute a fund to be applied by the Highway Surveyor to the repairs of the roads, bridges or causeways in such district.

Compensation of Surveyors.
1871, XIV, 669, § 18.

SEC. 24. Each Highway Surveyor provided for in this Chapter shall receive fifteen cents per hour for the time necessarily employed in discharging his duties: *Provided*, That he shall not receive exceeding fifty dollars per annum, except in extraordinary cases, when the County Commissioners may, in their discretion, allow a greater sum, and, in no event, more than seventy-five dollars.

Removal of persons liable to road duty, effect.
1870, XIV, 398, § 3.

SEC. 25 In case any person shall remove from one County to another, who has, prior to such removal, performed the whole or any part of the labor aforesaid, or in any other way has paid the whole or any part of the amount aforesaid in lieu of such labor, and shall produce a certificate of the same from the Commissioners of the proper County, such certificate shall be a complete discharge for the amount therein specified.

What to be deemed residence.
Ib., § 5.

SEC. 26. For the purposes provided for under the preceding Sections of this Chapter, the residence of any person who has a family shall be held to be where his family resides, and the residence of any other person shall be held to be where he boards, in any County in this State.

Repair of bridges between Counties; division of bridge; rebuilding.
1825, IX, 562, § 17; 1852, XII, 181, § 16.

SEC. 27. That the County Commissioners in this State are authorized and empowered to employ the ordinary road labor in the construction and repair of all bridges over the rivers or creeks of this State, which constitute the boundary line between Counties, if in their opinion the same shall be sufficient, and shall assess their respective Counties, whenever in their judgment the said ordinary road labor is insufficient. And where any such bridge exists or shall be hereafter built, it shall be the duty of the Boards adjoining to divide the same by measurement in the centre, and each Board shall be responsible for the good order of the half next adjoining the County in which it lies. And whenever it becomes necessary to build a new bridge or to replace, entirely, an old one which has been carried away or destroyed, it shall be the duty of the Boards of the two Counties to replace the same.

CHAPTER XLVI.

Of Water Courses and Cuts.

SEC.
1. Power of County Commissioners over water courses and cuts.
2. To be highways and kept in repair by Surveyor.
3. Surveyor to keep open for navigation.
4. To remove logs, stumps, &c.
5. To keep banks in repair, and above tide water.
6. County Commissioners may cause new channels to be opened, &c.
7. Highway Surveyors to keep in repair new channels at certain points.
8. May employ labor by contract, &c.
9. Certain streams declared navigable; penalty for obstructing.
10. Owners may erect dams; proviso
11. Proceedings to remove mill dams for purposes of navigation.
12. No fish traps to be kept up near the dams on any navigable streams; penalty.
13. Penalty for obstructing navigation by fish traps.
14. Streams ordered to be made navigable not to be obstructed.

Power of County Commissioners over.

New. Con., Art. IV, § 19. 1 McC., 580; 4 Rich., 68; 11 Rich., 253.

SECTION 1. That the County Commissioners of the several Counties of this State shall have and exercise the same powers over the navigable streams, water courses and cuts, within the limits of their respective Counties, as they have over the highways and bridges therein, except as the same are herein modified.

To be highways and kept in repair by Surveyor.

New. 1871, XIV, 666, § 1.

SEC. 2. The said navigable streams, water courses and cuts shall be taken and deemed as highways, and the Surveyors of Highways appointed for the several highway districts shall take charge of and keep the same in repair at all times.

Surveyor to keep open for navigation.

1855, XII, 517, § 6.

SEC. 3. It shall be the duty of the aforesaid Surveyors of Highways to see and ascertain, from time to time, that the said water courses and cuts, and the mouths or entrances thereof, are open and free to the customary navigation, for boats drawing not more than four feet of water, except at such times as may be necessary to close the same for the purposes of repair or other necessary work; but in no case shall the said water courses or cuts be closed so as to prevent the free passage of such boats for a longer period than two consecutive months, or without thirty days' previous notice, signed by the County Commissioners, and published in at least one newspaper in the County wherein such water courses or cuts may be situated; and if the said water courses or cuts are within the limits of Charleston County, then such notice shall be published in at least one of the daily newspapers in the city of Charleston.

To remove logs, stumps, &c.

Ib.

SEC. 4. The said Surveyors shall see and provide that no logs, stumps, shell-banks, sand-bars, marshes, mud-banks, or any other obstacle to the free, safe and convenient passage of such boats at the usual time of tide, be allowed to remain in the said water courses, or in the said cuts, so as to cause manifest injury or inconvenience to navigation.

To keep banks in repair and above tide water.

Ib.

SEC. 5. They shall keep, or cause to be kept, in firm and good condition, the banks or causeways of the said water courses and cuts where such banks or causeways may be necessary, so that they shall be above tide-water, and shall be free from all such breaks, sluices, or other obstacles as may be an impediment to their uses and objects.

County Commissioners may cause new channels to be opened, &c.

Ib., 1868, XIV, 130, 11 Amended by Com'rs.

SEC. 6. That the Board of County Commissioners shall have full power and authority to appoint Special Commissioners who may cause to be opened any new channel through such projecting points of marsh land as impede and delay the navigation of the said water courses and cuts, and the proprietor or owner of the said marsh land shall be entitled to such reasonable compensation for the appropriation of the said land to the public use as may be deemed a fair equivalent by three discreet and disinterested citizens, to be selected by the mutual consent of the said Special Commissioners and the said proprietor or owner.

Highway Surveyors to keep in repair new channels, &c.

1856, XII, 517, § 6.

SEC. 7. The said Highway Surveyors are authorized and empowered, for the better navigation of the water courses and cuts, to make, open, dig out, cleanse, and keep in repair new channels through such points of marsh mud as project out, and, by forming curves or banks therein, impede the transit of such boats.

May employ labor by contract, &c.

Ib.

SEC. 8. The said Surveyors are authorized and empowered to keep the said water courses and cuts in repair, and to dig out, clear, cleanse, shorten, straighten, and make navigable the same, either with the labor of such male inhabitants as shall be liable to work on the public highways, or by contract with one or more persons, and they shall also have all such work done as may from time to time be expedient and necessary for the preservation and use of the said water courses and cuts, notwithstanding such work be not designated in this Chapter.

Certain streams declared navigable. Penalty for obstructing.

1823, VI, 279, 2; 1825, VI, 295, 6; 1843, XII, 305, 1, 2 Strob., 12; 2 Spears, 581; 5 Rich., 147; 11 Rich., 253.

SEC. 9. That all streams which have been rendered, or can hereafter be rendered, capable of being navigated by rafts of lumber or timber, by the removal therefrom of accidental obstructions, be, and the same are hereby, declared navigable streams; and if any person shall obstruct the same, otherwise than is hereinafter provided, such person shall be deemed guilty of a nuisance, and such obstruction may be abated as other public nuisances now are by the laws of this State.

Owners may erect dams. Proviso.

Ib., § 2.

SEC. 10. That it shall be lawful for owners of lands on such streams to erect mill dams across the same: *Provided*, They shall construct, and keep in repair, sufficient locks, or slopes, or canals, in or around such mill dams, to admit their free navigation for rafts of lumber and timber.

Proceedings to remove mill-dams for purposes of navigation

Ib., § 3; 1863, XIII, 471, § 1.

SEC. 11. That in all cases in which mill owners shall have erected their mill dams on such streams antecedent to their use for the purposes aforesaid, at the points at which such mill dams have been or may be erected, it shall be lawful for all persons who may desire, to use such streams for the purposes of navigation, as aforesaid, upon payment to such mill owner of a compensation to be determined by the parties themselves. But if the parties cannot agree, it shall be the duty of any neighboring Trial Justice, at the instance of any person desiring to use such streams, for purposes of rafting of rafts of lumber and timber, to call to his assistance four neighboring freeholders, two to be selected by the mill owner, and two by the applicant; and the said Trial Justice and freeholders shall determine the amount of compensation to be paid by

such person desiring to use such stream, subject to the right of appeal to the next Court of Common Pleas for the County in which the mill may be situated: *Provided*, That nothing herein contained shall be construed to extend to the navigation of Big Horse Creek, above the point at which the waste water of Bath Mills returns to the old bed of said Creek: *Provided, nevertheless*, Nothing herein contained shall be held or deemed to apply to any stream or water course within the corporate limits of the city of Charleston.

No fish traps to be kept up near dams on navigable streams.

SEC. 12. That it shall not be lawful for any person whomsoever, at any time, to erect or keep up any fish trap or other device for catching fish, or to fish with any net or seine within eighty yards of any dam, erected by the order or at the expense of the State, across any stream intended thereby to be made navigable, in which dams there shall be left or constructed any sluice for the passage of fish; and all and every person or persons offending against this Section shall, for each and every offence, pay the sum of twelve dollars, to be recovered before any Trial Justice of the County where the offence may have been committed, one-half of which penalty shall go to the informer, and the other half to the support of the work to which the dam is attached; and all traps and other devices for catching fish, erected or kept up in violation of this Section, be, and the same are hereby, declared public nuisances, and may be treated as such.

Penalty.
1822, IX, 521, § 20.
1827, VI, 340.
5 Rich., 1-4.

Penalty for obstructing navigation by fish trap.
1829, VI, 393, § 2.

SEC. 13. That if any person shall keep, put, or cause to be kept, put or placed by him, her or them, any fish trap, in or near any boat sluice, in any of the rivers within this State, so as thereby to injure or in the least obstruct the free navigation of said rivers, that every such person or persons so offending shall forfeit, for each and every such offence, the sum of one hundred dollars, for the use of the State, to be recovered by information and proof, upon indictment in any Court of General Sessions in this State.

Streams ordered to be made navigable, not to be obstructed.
1823, VI, 219, § 21.
2 Strob., 12

SEC. 14. That it shall not be lawful for any person to keep up or erect any dam, except as provided for by Section 10 of this Chapter, across any river which the Legislature has ordered to be made navigable, or for improving which the Legislature has made any appropriation, so as to obstruct the passage of boats or rafts of timber and lumber therein; and in case any dam, hereafter to be erected, shall not be immediately taken down and opened, when required by the County Commissioners, the same shall thenceforth be regarded and taken to be a public nuisance, and shall and may be abated as such; and the person erecting or keeping up the same shall, on conviction thereof, be fined at the discretion of the Court, in a sum not exceeding five hundred dollars, for the use of the navigation of the river where the said nuisance exists.

CHAPTER XLVII.

Of Bridges, Turnpikes and Ferries.

SEC.

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Bridges.

Railing to be put to bridges 1823, IX, 528, § 17.

SECTION 1. That it shall be the duty of the owners of all toll bridges which have been or may hereafter be chartered by the Legislature, to cause to be erected a good and sufficient railing, extending twenty feet from the ends of all such toll bridges, on each side of the road passing over such toll bridge.

How bridges are to be passed. 1827, VI, 314, § 4.

SEC. 2. No person shall drive, lead, or, having charge thereof, shall permit any carriage, animal or other thing to travel over or on any bridge more than ten feet long, now constructed or hereafter to be constructed by the authority of the Legislature, in a gait faster than a walk, nor shall any person having charge of any carriage, animal or thing, cause or permit it to stop on any such bridge. And every person so offending against this provision shall, on conviction thereof before any Trial Justice of the County, pay a fine not exceeding ten dollars, nor less than five dollars, and shall be further liable for all damages occasioned by such offence.

No fire to be carried on a bridge. Ib., § 5

SEC. 3. No person shall carry over, or otherwise have or place any fire on any wooden bridge, or bridge the superstructure whereof is of wood, now constructed, or hereafter to be constructed, by the authority of the Legislature; and every person so offending shall, on conviction thereof

before a Court of competent jurisdiction, pay a fine not exceeding ten dollars, nor less than two dollars, and shall be liable for all damages occasioned thereby.

No wooden building to be erected within fifty feet of a bridge.
Ib., ¶ 6.

SEC. 4. No person shall erect or cause to be erected, any wooden building, or other edifice not constructed of stone or brick, and not roofed with tile or slate, so as not to be fire proof, within fifty feet of the wooden part of any bridge which is more than fifty feet long, constructed by authority of the Legislature; and if any person shall attempt such building or edifice, he may be prohibited from proceeding therein by any competent Court; or if the same shall have been erected contrary to this Section, the said Court may order the same to be taken down and removed, and it shall be lawful for the proprietor or proprietors of the bridge, their officers or agents, to execute such order, under the direction of the Sheriff of the County, or his lawful deputy.

Vessels passing under bridges to drop anchor, &c.
Penalty.
1785, IX, 294, § 10; 1788, IX, 311, § 12.
Amended by Com'rs to conform to Art I, § 22, Constitution.

SEC. 5. All vessels, boats and rafts, passing under any bridge, shall, before they come to the same, drop anchor and drag through under the same; and if any vessel, boat or raft, shall pass or attempt to pass under any bridge without dragging as aforesaid, every such vessel, boat or raft, shall forfeit the sum of fifty dollars, to be recovered by immediate seizure and detention of the said vessel, boat or raft, until the payment of the said sum, by information being given of the same to the Circuit Court in the County where the offence was committed; the money, when so recovered, to be applied for rebuilding or keeping in repair such bridge.

Turnpikes.

Where toll gates shall not be erected
1827, VI, 307, cl. 2, ¶ 3.

SEC. 6. The proprietor or proprietors of a turnpike road shall not erect any toll gate across any public road now established by law, or which may hereafter be established by Act of the Legislature, and which is and shall be kept in repair by the means at the disposal of the County Commissioners, according to a general law of the State.

How graduated.
Ib., 310, ¶ 16.

SEC. 7. Every turnpike road shall be so graduated as that no part of it shall rise above the horizon in a greater angle than three degrees, or a rise of one foot in nineteen feet of horizontal extension.

Wheels with broad tires to pay less toll.
Ib., 17.

SEC. 8. All carriages, the tires of whose wheels are more than four inches broad, shall be subject to a toll on all the turnpike roads in the State, less by twenty-five per cent. than the toll which carriages of the same description having narrower tires are subject to; and all carriages, the tires of whose wheels are more than six inches broad, shall be subject to a toll on the said roads less by fifty per cent. than the toll which carriages of the same description having tires less than four inches broad are subject to. The maximum of tolls, established by the Act granting the charter of a turnpike road, shall always have reference to carriages with tires less than four inches broad.

One toll gate every twenty miles.
Ib.,3 0,cl 2,¶14.

SEC. 9. For every twenty miles of turnpike road completed, one toll gate may be established, with the rates of toll allowed by law. Or for every ten miles of turnpike road completed, one toll gate may be established, with half the said rates of toll.

Ferries.

How rechartered
1826,IX,569,§22.

SEC. 10. No ferry, the charter of which shall have expired, shall be rechartered by the Legislature, unless the person or persons so applying shall advertise his intention of doing so, within three months previous to the meeting of the Legislature to which such application shall be made, and at three of the most public places in the neghborhood of the said ferry.

Keepers of ferries to keep banks in order.
1809, IX, 443, § 27.
1 McC., 158.

SEC. 11. It shall be the duty of every person keeping a ferry to keep in good order the banks of the river or creek at such ferry. And in case of neglect, he shall be subject to a fine of three dollars for each and every day of such neglect; the same to be recovered before any Trial Justice having competent jurisdiction.

Aprons to be attached to ferry flats.
1824,IX,544, § 50
1 McC. 158.

SEC. 12. Each and every ferry owner or keeper in this State shall provide and keep attached to each end of his ferry flat, or flats, a good and sufficient apron, or, not having such aprons, shall keep at each and every landing place a good and sufficient abutment, or inclined plane for the same; and for default or neglect in so doing he shall be fined in a sum not exceeding ten dollars for every three days' continuance of such default, to be recovered in any Court having competent jurisdiction of the same; one half thereof to the use of the State, and the other half to the informer.

Repair of ships.
1821, IX, 515, § 13.

SEC. 13. All persons who may have charters for any ferry, where it is necessary that slips should be used, shall keep the same in repair at their private expense.

Persons not to transport passengers within a mile of an established ferry.
1741,IX, 123, § 9.

SEC. 14. If any person or persons, living within the space of one mile of any established ferry in any part of this State shall, for any fee, toll or reward, whatever, transport any person, goods or cattle, from one side only to the other of that river where any such established ferry shall be kept, the person taking any such fee, toll or reward shall forfeit and pay to the proprietor of the ferry next adjacent to the place where such fare was taken up, treble the value of the fee, toll or reward given, paid or promised; to be recovered by warrant under the hand and seal of one Trial Justice, any law, usage or custom to the contrary notwithstanding: *Provided, always*, That in case any passenger shall be detained more than half an hour at any such ferry, then any persons living near such ferries may be at liberty to transport them, anything herein to the contrary notwithstanding.

Proviso.

SEC. 15. It shall not be lawful to exact from the citizens of this State, nor shall any of them be compelled to pay, any toll for crossing any ferry within the limits of this State, or for the crossing of their horses, cattle or other property, at any such ferry, when the boat or boats, flat or flats, kept at said ferry, is or are not used by them for said purpose.

Tolls remitted in certain cases. 1803, IX, 47, § 72.

SEC. 16. The keepers of all private ferries, usually putting over passengers for hire, shall be obliged to pass over, free of charge or expense, all such persons as are by law exempted from the payment of ferriage at ferries established and allowed by Act of the Legislature.

Private ferries to pass exempts gratis. 1807, IX, 430, § 26.

Turnpikes and Bridges.

SEC. 17. The bed of every turnpike road shall not be less than thirty nor more than forty feet wide, exclusive of the ditches and grounds shaded with trees; except where the bed runs on the top of a causeway, more than three feet high, or is cut more than three feet deep in the solid earth, in either of which cases the bed of the road shall be not less than twenty-four feet wide. Every bridge on a turnpike road shall be as wide as the bed of the road, except where the bridge shall be more than twelve feet long, in which case it must be at least twenty-two feet wide, and shall have side railing at least three feet high, or parapet walls.

Width of turnpike roads and bridges. 1827. VI, 310, cl. 2, ¶ 15

SEC. 18. If any person shall willfully or maliciously destroy, or in any manner hurt, damage, injure or obstruct, or shall willfully and maliciously cause, or aid and assist, or counsel and advise any other person, to destroy, or in any manner to hurt, damage, injure or obstruct any turnpike road or bridge, now or hereafter to be constructed by the authority of the Legislature, or any causeway, culvert, drain, ditch, wall, embankment, toll house, or toll gate, of any such turnpike road or bridge, the person so offending, on conviction thereof, shall be imprisoned not more than three nor less than one month, and pay a fine not exceeding five hundred dollars, nor less than twenty dollars, at the discretion of the Court before which such conviction shall take place, and shall be further liable to pay all the expenses of repairing the same.

Penalty for injuring. Ib., 313, ¶ 1; 1788, IX, 311, § 11.

SEC. 19. If any person shall cause any obstruction to be placed on any turnpike road, causeway or bridge now constructed, or hereafter to be constructed, by the authority of the Legislature, so as to obstruct, or render dangerous or difficult the passage of carriages, or other traveling thereon, or shall obstruct, or in part or in whole fill up any drain, ditch or culvert, made for the purpose of conveying water over, under, from or alongside of any such turnpike road, causeway or bridge, and shall not immediately remove such obstruction, when required so to do, he or she shall be deemed guilty of a nuisance, and on conviction thereof before a Court of competent jurisdiction, shall pay a fine not exceeding ten dollars nor less than two dollars, and shall be further liable to pay the expenses of removing the said nuisance.

Penalty for obstructing, &c. 1827, VI, 313, ¶ 2.

All traveling to be on the right of the centre of road or bridge
Ib., 314, § 3.

SEC. 20. Every person, carriage, animal or other thing traveling or passing on or over any turnpike road, causeway or bridge now constructed, or hereafter to be constructed, by the authority of the Legislature, shall keep entirely on the right of the centre of the said road, causeway or bridge, so as not to obstruct the passage of any other person, carriage, animal or thing, on the other side of the centre thereof. And every person who shall drive, lead, or, having charge thereof, shall permit any carriage, animal or other thing, to travel on such road, causeway or bridge, contrary to this provision, shall, on conviction thereof before any Court of competent jurisdiction, pay a fine not exceeding ten dollars, nor less than two dollars, and be further liable for all damages occasioned thereby.

Proprietors liable to indictment for not keeping up works
Ib., 315, cl. 3, § 9.

SEC. 21. The proprietor or proprietors of every bridge or tunpike road now constructed, or hereafter to be constructed, by the authority of the Legislature, shall be liable to indictment at common law for not keeping their respective works in such condition as to answer the ends of their creation.

Penalties recovered, how to be applied.
Ib., § 4.

SEC. 22. All the penalties which may be recovered for offences against owners of bridges or turnpikes shall be paid one-half to the informer and the other half to the corporation or individual or individuals owning the works respecting which the said offences shall have been committed.

Bridges and Ferries.

Toll at bridges and ferries chartered since December 1, 1845.
1845, XI, 359, § 23

SEC. 23. At all ferries and bridges, chartered since the first day of December, 1845, the same and no higher toll shall be demanded, paid or allowed on any wagon, buggy, barouche or other carriage, drawn by a single horse, mule or other animal, than is allowed, paid or demandable for chairs, gigs or sulkies, any law custom or usage to the contrary notwithstanding.

Owners of bridges destroyed may establish temporary ferries
1831, IX, 394, § 1.

SEC. 24. Where any bridge has been, or shall hereafter be, erected over any river in this State, and the same has been, or shall hereafter be, destroyed or injured by freshets or otherwise, so as to be impassable, the company or individual owning such bridge is authorized to establish a ferry at some convenient place within one mile of the site of the said bridge, and to keep the same and receive the emoluments thereof, not exceeding in amount of ferriage the established tolls receivable at said bridge, during the time the said bridge shall be rebuilding or repairing: *Provided*, That the rebuilding or repairing the said bridge shall be begun within six months, and shall be finished within two years from the time the said bridge shall be destroyed or so injured; and, during the time aforesaid, all other persons shall be excluded from establishing any ferry within three miles of the site of the said bridge, excepting from the operation of this provision any ferry before that time established by law, and, at the time of the destruction or injury of the said bridge, regularly kept and used: *Provided, also*, The company or individual, as the case may be, shall pay all the damages which may be sus-

Proviso.

tained by any person, consequent upon the establishment of such ferry, to be assessed in the same manner as is established for the settlement of the damages done to individuals by turnpike roads passing through their lands.

Toll to be conspicuously posted.

1799, IX, 396, § 16; 1807, IX, 429, § 22; 1869, XIV, 209, § 1. 2 N. & McC, 471; 1 Bail., 431.

SEC. 25. It shall be the duty of the managers and attendants of all public ferries and bridges, having the privilege by law to charge toll for the passage of persons, animals and vehicles or other goods, to cause the rates chargeable for such passage to be posted in legible letters or characters in some conspicuous place, stating the legal amount to be paid, so as to be read for information without inconvenience, at the approach to such ferry or bridge.

Fine for neglect; disposition of fine.

1783, IX, 274, § 3; 1814, IX, 478, § 27; 1822, IX, 520, § 20; 1823, IX, 528, § 16; 1869, XIV, 209, § 2

SEC. 26. Any neglect of the duties prescribed in the foregoing Section, or any toll exacted at higher rates than may be allowed by law, shall, upon conviction of the parties so neglecting before any Trial Justice, be punished with a fine of not less than than ten nor more than fifty dollars, which fine shall be added to the funds for the maintenance of common schools in the County where such ferry or bridge may be situated.

Persons fording not to pay toll.

1792, IX, 357, § 46.

SEC. 27. If the water at any bridge or ferry should be so low as to enable persons with their horses or cattle to ford the same, the proprietors of the ferry or bridge shall not be allowed to take any toll from the person or persons so fording the same. And no old accustomed ford, or the roads leading to or from such fords, within this State, shall be obstructed; and the Surveyors of Highways in their respective highway districts are required to keep the roads leading to or from such old accustomed fords open and in good repair: *Provided,* Nothing herein contained shall infringe, or be construed to infringe, the charter granted to any companies to promote the inland navigation of this State.

Fords not to be obstructed

1791, IX, 336, § 25.

SEC. 28. No keeper of any ferry or toll bridge, or other person, shall, on any pretence whatsoever, stop up or obstruct any fording or crossing place, on any river or creek within this State, with a view to compel any person or persons to cross over any ferry or toll bridge, under the penalty of two dollars and fifty cents, to be recovered before the nearest Trial Justice, for every person or persons so prevented from passing over such fording or crossing place.

Penalty for compelling exempts to pay toll.

1789, IX, 396, § 16; 1814, IX, 478, § 27; 1820, IX, 520, § 20; 1823, IX, 528, § 16

SEC. 29. If the owners, keepers or proprietors of any bridges or ferries, shall insist on or compel, by threats or other means, or receive, the payment of toll or ferriage from any person or persons declared to be exempted from the payment of the same, such person or persons, guilty of such exaction or reception, shall be subject and liable to forfeiture of not less than ten dollars, for the use of the person or persons illegally paying the same; to be recovered by warrant, under the hand and seal of any Trial Justice in this State, living in the County or Counties adjoining said ferry, where such exaction or illegal reception shall or may be made as aforesaid.

Distance between ferries, how ascertained
1800, IX, 399, 12.

SEC. 30. In all disputed cases whatsoever, to arise under any Act for the establishment of ferries and bridges in this State, the disfranchising space, whether within three or more miles, shall be admeasured, either by the distance by water or the approachable road, and in no case by a straight line, except where a travelable and practicable road exists in such straight line, or might be as easily made, and at as little expense and inconvenience to the public, as in any other course.

General Provisions.

Commissioners to be appointed to superintend works.
1827, VI, ¶ 19.

SEC. 31. The proprietor or proprietors of each and every bridge, ferry or turnpike road, and the County Commissioners of the County to which the work is subject, shall appoint, immediately after the completion of the said work, and before any toll or ferriage is received thereat, and at the expiration of every three years thereafter, three persons, who shall be Commissioners of the said work; and where the above named parties do not agree, or whenever the Legislature shall, by resolution or Act, order a new commission, the said Commissioners shall be appointed by the Court of Common Pleas of the County in which the whole or any part of the said work may be situated; but, before such appointment shall be made, the Attorney General or Solicitor of the Court shall have notice of the day on which application for such appointments will be made. And in case the proprietor or proprietors shall not apply for the appointment of Commissioners, on or before the second day of the next term after such application to the Court shall become necessary, the Attorney General or Solicitor of the Circuit shall make application to the Court for such appointment, which may be made without notice to the proprietor or proprietors.

Work to be examined by them.
Ib, 311, cl 2, ¶ 20.

Duty if work is in a dangerous condition

SEC. 32. The Commissioners of each and every bridge, ferry and turnpike road, shall have full power, in addition to the authority hereinbefore given them, and they, or a majority of them, are hereby required to examine the works for which they may be appointed; and in case they shall find the said work, or any part thereof, out of repair or not in good order for traveling or passing, or in any way difficult or dangerous to be traveled or passed, it shall be the duty of the said Commissioners, or a majority of them, to make and publish in the nearest gazette, and to post up at all the places where tolls or ferriage are received, an order that the proprietor or proprietors shall not receive tolls for traveling over or passing the said bridge, ferry or turnpike road, as the case may be; and after the said order shall be made and posted up as aforesaid, (whether published in the said gazette or not,) and until the said order shall be repealed, each and every toll gate of the said work shall be kept open, and it shall not be lawful for the proprietor or proprietors thereof to receive any toll or ferriage for traveling or passing over the said work or any part thereof; and the proprietor or proprietors, keeper or keepers of a ferry, during the continuance of such order respecting it, shall give the same attendance thereon, and convey all persons, horses, cattle and carriages over the same, as if no such order had been made. Whenever any member of the said Commission may know, of his own

observation, or be informed by the affidavit of any other person, taken before any Trial Justice, or any member of the said Commission, (who, for that purpose, are hereby authorized to administer oaths,) that the said works or any part thereof are out of repair or difficult or dangerous as aforesaid, he shall summon the other members to attend on the work complained of, and thereupon the said Commissioners shall make or reject the said order, as the nature of the case may require; and it shall also be the duty of the said Commissioners, on the written summons of the proprietor or proprietors, to attend and repeal said order, whenever the cause for making the same may have been removed. Whenever the said Commissioners may refuse to make or repeal such order, when they ought so to do, they may be compelled thereto by *mandamus*.

Oath to be taken by them. Ib., ¶ 21.

SEC. 33. Each Commissioner of each and every Bridge, Ferry and Turnpike Road, before entering on the duties of his office, shall take and subscribe an oath or affirmation to the following effect: "I, A. B., one of the Commissioners of the Bridge, Ferry or Turnpike Road, (as the case may be,) do solemnly swear (or affirm) that I will, to the best of my judgment and ability, faithfully and impartially discharge the duties required of me by law, as Commissioner aforesaid."

Tolls to be paid before passing the gate. Ib., 309, ¶ 11.

SEC. 34. The tolls demandable and payable at the toll gate of any bridge, ferry or turnpike road, now constructed, or hereafter to be constructed, by authority of the Legislature, shall be paid, if required, before passing the gate. The collector at a gate or ferry shall make change of all coins or bills offered him in payment of tolls, under the value of five dollars, except six and a quarter and five cent bills or coins, which shall always be paid to the collector where a less sum is due to him for tolls, unless the exact change shall be tendered him in the copper coin of the United States.

Warrant may be issued to collect tolls. Ib., ¶ 12.

SEC. 35. In case the toll is not paid before passing the gate of any turnpike road, bridge or ferry, and shall be refused or neglected to be paid immediately after, the collector may issue his distress warrant for the same, and cause it to be levied on the carriage, horse, animal, or other thing which his incurred the demand for toll, or any article or thing conveyed in such carriage, or on such horse, animal or thing, and the thing so distrained shall be disposed of in the same manner as goods under execution.

Persons exempt from toll. Ib., 310, ¶ 13.

SEC. 36. Exemption from the payment of toll at every bridge, ferry and turnpike road hereafter chartered, shall be granted to every regularly ordained or licensed minister of the gospel: to every member of the Legislature, going to or from its sittings; and all persons going to and returning from divine service; and to every person traveling in the performance of any civil or military duty, for which he receives no salary or reward; and to every person whose duty it may be made by law to examine the said work, with not more than one servant, a carriage and two horses. In time of war or insurrection, troops, with their baggage, artillery and munitions of war, exclusively in the service of

this State, shall pass every bridge, ferry and turnpike road, at one-half of the established toll or ferriage.

Rate of tolls. 1827, VI, 308, cl. 2, § 9.

SEC. 37. The rate of tolls receivable at any bridge, ferry or turnpike gate, shall be as follows, unless otherwise expressed in the Act granting or authorizing the charter:

For every carriage with four wheels, for the conveyance of persons, (except stage coaches, running regularly on the road,)	
drawn by four horses or mules	$1 00
drawn by three horses or mules	0 75
drawn by two horses or mules	0 50
For every other carriage with four wheels,	
drawn by six horses, oxen or mules, or more	0 75
drawn by five horses, oxen or mules, or more	0 62½
drawn by four horses, oxen or mules, or more	0 50
drawn by three horses, oxen or mules, or more	0 37½
For every carriage with two wheels, for the conveyance of persons, drawn by two horses or mules, or more	0 50
For every carriage other than for the conveyance of persons,	
drawn by four horses or mules	0 50
drawn by three horses or mules	0 37½
For every other carriage	0 25
For every person on horseback, or leading or driving a horse or mule	0 12½
For every led horse or mule, accompanying a person on horseback	0 6¼
For every horse or mule in drove	0 4
For every head of cattle	0 3
For every hog, sheep or goat	0 2
For every animal for show, in addition to the carriage in which it may be conveyed	0 50
For every foot passenger crossing a bridge	0 6¼

But no foot passenger shall be liable to pay toll for passing a turnpike gate.

Foot passengers exempt. 1788, IX, 332, § 16.

SEC. 38. That if any person or persons shall meet with unnecessary delay at any of the public ferries, toll bridges or causeways established by law, every such person or persons may recover from the persons keeping such ferry, bridge or causeway, for every hour of such unnecessary delay, the sum of ten dollars, to be recovered, on application, from the party aggrieved, by warrant and execution from any neighboring Trial Justice.

Notice of application for charter. 1809, IX, 143, § 23.

SEC. 39. That no road, bridge or ferry, shall be established by law, unless the person or persons petitioning for the same shall have given notice to the County Commissioners in the County or Counties in which the said road, bridge or ferry is intended to be established, at least six months before the session of the Legislature, and shall bring to the Legislature a certificate of the same, from the Board of County Commissioners.

SEC. 10. Every application to the Legislature to grant a charter for any bridge, ferry or turnpike road, shall be by petition in which shall be set forth particularly the site on which it is to be constructed or kept, and shall be enumerated all the chartered bridges, ferries and turnpike roads within ten miles of any part of the work so intended to be constructed or kept; and in it shall be stated the public convenience which requires the grant; and the said petition, together with a notice that it is intended to present it to the next Legislature, shall be published in some Gazette, printed at the seat of government, or in the County in which some part of said work is intended to be constructed or kept, at least once in each month for the term of three months next preceding the month in which the Legislature to which the petition is intended to be presented is to commence its session; and when any proprietor or proprietors of any chartered bridge, ferry or turnpike road, his, her or their agent, trustee or attorney, may give notice in writing to the petitioner, or any one of the petitioners, two months before the meeting of the Legislature to which the petition is to be presented, that the grant will be opposed, and in the said notice shall state the grounds for such opposition; then, and in that case, all the evidence for and against such grant shall be taken on oath, and in writing, before the Clerk of the Court of the County where is situated some part of the work so intended to be constructed or kept. But before any evidence shall be so taken, the party offering it shall give at least ten days' notice to some one of the opposite party, of the time and place of taking such evidence; and whenever any such charter shall be granted without all the requisites of this Section being complied with, the said charter may be repealed by action at the suit of the proprietor or proprietors of any previously chartered bridge, ferry or turnpike road, any part of which may be situated within ten miles of any part of the bridge, ferry or turnpike road so illegally chartered.

Applications for charters, how to be made.

Opposition, how made.

1827, VI, 3 2, cl. 2, § 23 1 N. & McC., 387.

CHAPTER XLVIII.

OF THE STATE ROAD.

Sec.
1. Comptroller General to lease State Road across Saluda Mountain every three years.
2. To require bond of lessee.
3. Empowered to execute lease on behalf of State.
4. Unlawful to make a by-path round a toll gate on State Road; penalty.
5. No road to be kept open within ten miles
6. Offender liable to penalty of $500.
7. Also to pay $500 per month.
8. Regulations as to traveling on State Road; penalty for violations.
9. Order of traveling prescribed; exceptions.
10. Toll.
11. Tolls, how to be paid
12. Persons exempt from toll.
13. Toll to be paid before passing.
14. Penalty for injuring or obstructing.
15. Penalty for obstructing.
16. Penalty for injuring mile stones.
17. Penalty for injuring trees planted on State Road.
18. County Commissioners to see that Road is kept in order; if not, bond to be sued on.

SECTION 1. That the Comptroller General of this State be authorized, every three years, beginning on the 1st day of March, 1869, to lease the State Road, known as the Saluda Mountain Road, running from Greenville County, in this State, across the Saluda Mountain, to Henderson

Comptroller General to lease State Road across Saluda Mountain every three years.

1868, XIV, 82, § 1. 1869, XIV, 193, § 1.

County, in North Carolina, to the highest bidder for the term of three years. He shall give public notice in the newspapers of Greenville and the city of Columbia for thirty days, and receive sealed proposals for said road during that time, and shall lease said road within forty days thereafter.

To require bonds of lessee.
Ib., § 2.

SEC. 2. He shall require a good and sufficient bond of the lessee for keeping the road in good repair, and prescribe such other conditions of the said lease as may by him be judged proper and necessary to secure a faithful observance of all the requirements of the said lease.

Empowered to execute lease on behalf of State.
Ib., § 3.

SEC. 3. He is empowered to execute the lease in the name of the State, and to do all other acts necessary to carry into effect the foregoing provisions.

Unlawful to make a by-path round a toll gate on State Road.

Penalty.
1846, XI, 365, § 1.

SEC. 4. It shall not be lawful for any person to make any by path or road around any of the toll gates established, or which may be established, on said road, for the purpose of eluding the payment of toll at said gates. And any person who may make such by-path or road for the purpose of eluding toll shall forfeit and pay a sum not exceeding fifty dollars, to be recovered by action in any Court of competent jurisdiction, to the use of the road.

No road to be kept open within ten miles.
1841, XI, 361, § 1.

SEC. 5. It shall be unlawful for any person to open or keep open any road or thoroughfare within ten miles of the said road for the purpose of diverting travel or transportation therefrom.

Offender liable to penalty of $500.
Ib., § 2.

SEC. 6 Every person offending against the provisions of Section 5 of this Chapter shall be liable as for a misdemeanor, in any Court of competent jurisdiction, and shall, on conviction, forfeit and pay a penalty of five hundred dollars, one-half to the informer and the other half to the use of the State.

Also to pay $500 a month.
Ib., § 3

SEC. 7. The party so offending or persisting to offend against the provisions of the said fifth Section shall be liable to forfeit and pay five hundred dollars per month as long as he shall continue to offend against the same; said penalty to be recovered and to enure as hereinbefore directed.

Regulations as to traveling on State Road.

Penalty for violation.
1833, VI, 193, § 3.

SEC. 8. On the said road, road wagons drawn by four or more horses, mules or oxen, shall be required to keep on the timbered ways, where the road is timbered, unless it shall be necessary for them to leave these ways for the purpose of passing other vehicles, or avoiding broken places; and this regulation shall be posted up at every toll gate, and communicated to the driver of every such wagon, by every toll collector who shall receive toll from such driver; and in every case of the violation of this regulation, the toll collector at either of the gates between which the violation took place may proceed to collect ten times the toll which the said wagon may be liable to pay for passing at his gate.

SEC. 9. In traveling on every part of the said road, the following order shall be preserved, to wit: All carriages of burthen, or for any other use, shall keep on the right side of the centre of the road, so as not to interfere with carriages traveling on the other side, except in the following cases, to wit: Where the centre of the road is timbered less than fourteen feet wide, the following order shall be observed, to wit: the centre or timbered part of the road may be kept—

Order of traveling.

1. By loaded wagons traveling towards the mountains, excluding all others therefrom;

Exceptions. 1824, IX, 549, § 13.

2. All descending loaded wagons and carriages may keep the side of the road next to the mountain and furthest from the valley.

SEC. 10. The rates of toll to be paid at each gate on the said road shall be the same as heretofore fixed by the Superintendent of Public Works: *Provided*, That there shall be paid for cattle two cents, and for hogs one cent per head, and the toll exacted on single horse carts, at each toll gate, shall be fifteen cents, and no more.

Toll—horse carts. 1846, XI, 367; 1829, VI, 381, 28.

SEC. 11. Each collector shall make change of all bills and coins under five dollars, tendered in payment of toll, except for six and a quarter and five cent bills or pieces of coin, which shall always be paid by the traveler when a less sum may be due by him to the collector.

Collector to make change, &c. 1828, VI, 368, § 3.

SEC. 12. The following exemptions from tolls, and no others, shall be granted at each toll gate on the said road, that is to say:

Persons exempt from toll 1824, IX, 547, § 8.

1. The army of this State, of our sister States, and of the United States, while marching on duty in time of war, together with their horses, teams, and carriages loaded with provisions, baggage and munitions of war.

2. Every minister of the Gospel, engaged in the duties of his calling.

3. Members of the Legislature, in going to and returning from the Legislature.

4. Grand and Petit Jurors, in going to and returning from Court.

5. Every person traveling in the performance of any civil or military duty, who receives no salary, emolument or reward therefor, with not more than one servant, and a carriage and two horses.

6. Such persons as may be appointed by the Legislature, to inspect the said road, or perform any duty thereon, their servants, horses and carriages.

7. Every person resident within five miles of the said toll gate, when traveling not more than five miles therefrom, with their servants, horses, cattle and carriages.

SEC. 13. No person, horse, hog, cattle, nor carriage, nor other articles chargeable with toll for passing any toll gate on the said road, shall pass the same until the toll is paid. And in case the same shall have passed the gate before such payment, and the person liable to pay the same shall neglect or refuse so to do, it shall be lawful for the person entitled

Toll to be paid before passing. Ib., 548, § 11.

to receive the said toll to issue his distress warrant therefor, and to cause any of the said horses, hogs, cattle, carriages, or other articles, or any article loaded thereon, sufficient for the said payment, to be distrained for payment thereof; and the article or articles so distrained shall be disposed of in the same manner as goods under execution.

Penalty for injuring or obstructing.
Ib., 545, § 1.

SEC. 14. If any person shall willfully and maliciously destroy, injure, or in any manner hurt, damage, impair or obstruct any of the said road, or any part thereof, or any bridge, culvert, drain, ditch, causeway, embankment, wall, toll gate, toll house, or other erection belonging to the said road, or any part thereof, the person so offending shall, on conviction thereof, be imprisoned not more than three months nor less than one month, and pay a fine not exceeding five hundred dollars nor less than twenty dollars, at the discretion of the Court before which the conviction shall take place, and shall be further liable to pay all the expense of repairing the same.

Penalty for obstructing roads, &c.
Ib., § 2.

SEC. 15. If any person shall cause any obstruction to be placed in any part of the said road, or on any bridge or causeway thereof, so as to obstruct or render dangerous or difficult the passage of carriages or other traveling thereon, and shall not immediately remove the same when required, he shall be deemed guilty of a nuisance, and, on conviction thereof, shall be fined in a sum not exceeding ten dollars, nor less than two dollars, and shall be further liable for the expenses of removing the said nuisance.

Penalty for injuring mile-stones.
1828, VI, 370, § 11.

SEC. 16. If any person shall break down, deface, or otherwise injure any mile stone or other fixture to mark the distance on the said road, for every mile stone or fixture so broken down, defaced or injured, he or she shall pay a fine not exceeding twelve dollars, nor less than five dollars, to be recovered before any Trial Justice of the County where such offence may be committed. The fines collected under this and the preceding clause shall be paid, one-half to the informer, (and such informer shall be a competent witness to prove such offence,) and the other half to the lessee of the road.

Penalty for injuring trees
Ib., 369, § 10.

SEC. 17. If any person shall cut down or otherwise destroy any trees growing, or hereafter to be planted by the lessee, or by his direction or permission, within the limits vested in the State for the road aforesaid, such person, for every tree so cut down or destroyed, shall pay a fine not exceeding twelve dollars, nor less than five dollars, to be recovered before any Trial Justice of the County where such offence may be committed.

County Commissioners to see that road is kept in order; if not, bond to be sued on
1853, XII, 112, § 2.

SEC. 18. It shall be the duty of the County Commissioners through whose Counties the State road passes, to see that the same is kept in good traveling order and condition at all times during the lease thereof, and if it is not, they shall report the fact to the Comptroller General, who

shall cause to be put in suit the bond, of the lessee or lessees, and shall take other proceedings against him or them as he shall deem necessary and proper.

CHAPTER XLIX.

Of Dams and Drains.*

Sec.
1. No dams allowed to be erected or water let off to the injury of other persons.
2. Dams to be opened by 10th of March; penalty.
3. Mode of obtaining redress if the dams are not opened at the proper time; proviso.
4. Redress for obstructing surplus water on rice grounds.
5. Penalty on persons replacing obstructions and opposing the opening of dams.
6. Inadequate dams to be strengthened; dams to have waste ways; penalty for neglect or omission; proviso.
7. Residents only to be summoned to survey rice lands; compensation; penalty for non-attendance.
8. Penalty on Trial Justice for neglect of duty in relation to dams and drains.
9. Persons not to keep water on others' lands.

No dams to be erected or water let off in injury of others.

1744, III, 609, § 1.
1783, IV 540, § 1.

Section 1. That no person or persons shall be permitted or allowed to make or keep up any dams or banks to stop the course of any waters so as to overflow the lands of any other person, without the consent of such person first had and obtained; nor shall any person or persons be permitted or allowed to let off any reserved water, to injure the crops upon the grounds of other persons.

Dams to be opened by the 10th of March.

Sec. 2. Every person who shall keep water during the winter upon grounds on which rice shall be planted the ensuing spring, shall, on the tenth day of March in each year, open the dams which keep up the water, in a sufficient manner for letting off the same; and if any person or persons shall neglect so to do on or before the time aforesaid, he or she shall forfeit and pay the sum of five hundred dollars for every such neglect, to be recovered upon the complaint of any person or persons through whose lands such water may pass, and it shall and may be lawful for such person to sue for the same, in any Court of competent jurisdiction in the County where such offence is committed, and the one-half thereof shall be paid to the informer, and the other half to the use of the poor of such County.

Penalty.

1786, IV, 722, § 1.

Mode of obtaining redress if dams are not opened at proper time.

Sec. 3. Where any person has neglected to open his or her dams in a sufficient manner for letting the water off the grounds before described, on or before the tenth day of March in every year, in manner aforesaid, it shall and may be lawful for any person who may be affected

* Note.—For drainage of inland swamps, see Title XIII, Chap. LXVI, "Of Draining Corporations."

thereby, at any time after the day aforesaid in every year, either by himself or herself, or his or her overseer, agent, attorney, or trustee, to apply to any Trial Justice in the County for a warrant of survey, who shall thereupon notify the defendant of the complaint made against him, with the time and place of meeting, and summon three freeholders, disinterested persons, of the neighborhood where the cause of complaint shall lie, one of whom shall be chosen by the defendant, and, in case of his refusal, then by the Trial Justice, another by the complainant, and the third by the Trial Justice, who (being first sworn before such Trial Justice to determine the matter in dispute justly and impartially) shall forthwith proceed to view the obstructions complained of, and if, on view thereof, the said freeholders, or a majority of them, shall be of opinion that such obstructions do or may prevent the party complaining from planting his or her crop of rice in proper time, then and in such case it shall and may be lawful for the said freeholders, or a majority of them, to cause the same to be immediately opened or removed in any way or manner they shall think necessary for the purpose of giving the most effectual relief to the party complaining, whereupon the defendant shall be obliged to pay all expenses attending such survey: *Provided, always,* That nothing herein contained shall extend, or be construed to extend, to impose any penalty on any person or persons, or to cause his or her dams or banks to be opened, who shall have made through his or her own lands a sufficient drain or drains (of which the said freeholders shall be the judges) to carry off the waters passing through the same in as expeditious a manner as they could have passed through the natural course or channel in case no such banks had been erected.

Proviso.
1744, III, 609, § 3; 1786, IV, 723, § 2.

Redress for obstructing surplus waters on rice grounds.
1786, IV, 723, § 3

SEC. 4. It shall and may be lawful for any person, at any time between the tenth day of March and the first day of November in every year, to apply in manner aforesaid for a warrant of survey on any obstructions which he or she may conceive do impede the conveying off any surplus water on his or her rice grounds, and which, by remaining thereon, may prove any way injurious, or shall, at any time hereafter, make or keep up any dam or dams which shall stop the course of any water so as to overflow the lands of any other person or persons whatever, without the consent of such person or persons first had and obtained, and which shall be injurious to the said person or persons, then, in either of such cases, the said Trial Justice and the freeholders by him appointed shall proceed in the same manner as is directed in the foregoing Section: *Provided, always,* That if, in either of the cases last mentioned, the defendant shall neglect or refuse to attend at the survey to choose a freeholder as aforesaid, then the three freeholders who shall have been summoned by a Trial Justice shall proceed to determine the matter in dispute in the same manner as if the defendant had been present, and had chosen a freeholder; which said freeholders shall, in both cases, certify to the said Trial Justice, under their hands, what shall have been by them done in the premises; the expenses attending which survey shall be paid by the party against whom the award of the said freeholders shall be given.

Penalty on persons replacing obstructions, and opposing opening of dams

Ib., 724, § 4.

SEC. 5. If any person, either by himself or herself, or his or her overseer, agent, trustee, or attorney, or servant, or any other person or persons acting for him or her, shall presume to stop up any dam or dams, or replace any obstructions, in any manner whatsoever, which has or have been ordered to be opened or removed by any freeholders as aforesaid, or which has or have been opened or removed by himself or herself, or his or her overseer, agent, attorney, or trustee, or by order of either of them, on the said tenth day of March, until the tenth of July, every person so offending shall forfeit and pay the sum of one thousand dollars, to be recovered and disposed of in manner as aforesaid; and if any person shall presume to obstruct, impede, or otherwise hinder or interrupt the opening of any dam or dams, or the removing of any obstructions ordered to be opened or removed by the freeholders as aforesaid, every person so offending shall forfeit and pay for every such offence the sum of two thousand five hundred dollars, to be recovered and disposed of in manner aforesaid.

Inadequate dams to be strengthened; dams to have waste ways.

Penalty for neglect or omission.

SEC. 6. Where any dam or dams have been made, or shall hereafter be made, for the purpose of forming reservoirs of water, without a sufficient wasteway, and which now are, or shall hereafter be found, inadequate to sustain the weight of water against the same, the owner of such dam or dams shall immediately, or as soon as may be, cause the same to be enlarged and strengthened, where they are already made and are insufficient, and such as may hereafter be made, to be erected in a substantial manner, with a sufficient wasteway; and if any person shall neglect to strengthen his or her dam or dams already erected for the purpose aforesaid, where necessary, or shall hereafter erect any dam or dams for the purpose aforesaid, and which (in either case) in the opinion of three freeholders, or a majority of them, (to be appointed and proceed in manner hereinbefore mentioned respecting surveys of dams across rice grounds,) is or are not made and regulated in manner hereby prescribed, every person so offending shall, on complaint of any person or persons liable to be affected thereby, and on conviction thereof in any Court of record in the County where such offence is committed, forfeit and pay the sum of five hundred dollars for every such offence, which may be sued for, and, if recovered, be disposed of in manner aforesaid: *Provided always, nevertheless,* That nothing herein contained shall extend, or be construed to extend, to subject any persons who have made or shall make any banks or dams to reserve water, to pay any damages which may be sustained by the breaking of the said banks or dams when it is occasioned by such violent rains and floods as would have caused such damages to be sustained on the lands in question, though no such bank or dam had been made, whereof the freeholders aforesaid shall be the judges; anything herein to the contrary notwithstanding.

Proviso.

Ib., § 5; 1744, III, 610, § 3.

Residents only to be summoned to survey rice lands.

SEC. 7. Every person to be summoned as aforesaid shall be a resident in the County and neighborhood where his attendance shall be required, and upon being duly summoned, and attending any survey as aforesaid, shall be entitled to receive the sum of one dollar and fifty cents per

day, each, and five cents mileage going to and returning from the place of meeting, for every such attendance, to be paid by the person against whom the verdict of the freeholders shall be given; and in case of the non-attendance of any person, a resident, and summoned as aforesaid, (unless prevented by sickness, or some reasonable excuse to be made upon oath to the satisfaction of such magistrate,) then, and in such case, every such person so neglecting to attend when summoned as aforesaid, and without such sufficient excuse as aforesaid, shall forfeit and pay the sum of fifty dollars per day for every such neglect or refusal.

Penalty for non-attendance.
1783, IV, 724, § 6. Amended by Com'rs to conform to 1870, XIV, 399, § 6.

Penalty on Justice for neglect of duty.
1714, III, 610, § 4.

SEC. 8. In case any Trial Justice shall neglect or refuse to put the provisions of this Chapter in execution, he shall forfeit the sum of twenty dollars, which penalty shall and may be sued for and recovered by action in any Court of record in this State, and shall be applied one half to the State, to be disposed of by the General Assembly, and the other half to him or them who will inform and sue for the same.

Persons not to keep water on others lands.
1799, V, 355, § 1.

SEC. 9. Nothing contained herein shall be construed to authorize any person or persons to keep water at any time on any lands other than his, her or their own.

CHAPTER L.

OF FENCES.

SEC.
1. What are lawful fences; when navigable stream is lawful enclosure.
2. Horses, &c., breaking through lawful fence may be seized; owners fined. Otherwise, if fence be unlawful.
3. Penalty for injuring animals trespassing, where a fence is not lawful.
4. Provisions not applicable to certain islands; fences not required on said islands.

What are lawful fences.

When navigable stream is lawful inclosure.
1694, St. II, § 1; 1712, II, 538, § 2; 1827, VI, 331, § 1.

SECTION 1. That all fences closely and strongly made of rails, boards, or posts and rails, or of an embankment of earth capped with rails or timber of any sort, or live hedges, five feet in height, measured from the level or surface of the earth, shall be taken and deemed to be lawful fences; and every planter shall be bound to keep such lawful fence around his cultivated grounds, except where some navigable stream or deep water course shall be a boundary of such cultivated grounds, in which case such navigable stream or water course shall be deemed a sufficient fence: *Provided, always,* That before he avails himself of the provisions of this Section, he shall apply to a Trial Justice of the County, who shall, from the names of seven freeholders of the vicinage, draw, by lot, three, who are hereby required to view the premises, and pronounce upon the sufficiency of the said water as an inclosure, according to the true intent and meaning of this Section.

SEC. 2. If any horses, mules, cattle, hogs, sheep or goats, shall break into or be found in any field, in which shall be growing, or ungathered, any grain, cotton or vegetable production, raised for market or domestic consumption, the said field being inclosed with a lawful fence according to the provisions of this Chapter, it shall be lawful for the owner of such field to seize such horses, mules, cattle, hogs, sheep or goats, and to keep them in confinement until he shall have notified, within six hours after such seizure, the owner, or his or her agent, who shall be bound to pay to the owner of such field all damages which he or she may have sustained thereby; but if it should appear that the fence inclosing such field is not a lawful fence, then the verdict shall be for the defendant.

Horses, &c., breaking in, may be seized if fence is lawful.

Ib., 332, § 2; 1866, XIII, 414, § 3.
10 Rich., 227.

Otherwise, if fence be unlawful.

SEC. 3. If any person whose fields are not inclosed by a lawful fence shall kill, wound, maim, chase, worry, or in any manner injure, any horses, mules, cattle, hogs, sheep or goats, which shall be found in such field, whether cultivated or not, or shall cause or procure the same to be done by any other person, such person, so offending, shall be liable to an action, and the plaintiff shall recover full satisfaction for the injury, with costs, if the verdict exceed four dollars.

Penalty for injuring animals trespassing where fence is not lawful.

1827, VI, 332, § 3.

SEC. 4. The foregoing Sections of this Chapter shall not apply to the Islands of Edisto, Wadmalaw, John's Island and James's Island, and fences shall not be required to be kept around cultivated grounds on the said islands.

Provisions not applicable to certain Islands.

1866, XIII, 414, §§ 1, 2.

TITLE XII.

OF THE REGULATION OF TRADE IN CERTAIN CASES.

CHAPTER LI. *Of the Inspection and Sale of Provisions and other Merchandise.*
LII. *Of Auctions and Vendues.*
LIII. *Of Weights and Measures.*
LIV. *Of Shipping and Pilotage.*
LV. *Of Money, Bills of Exchange, and Promissory Notes.*
LVI. *Of Agency.*
LVII. *Of Limited Partnerships.*
LVIII. *Of the Inspection of Timber and Lumber.*
LIX. *Of Neat Cattle.*
LX. *Of Common Carriers.*

CHAPTER LI.

OF THE INSPECTION AND SALE OF PROVISIONS AND OTHER MERCHANDISE.

SEC.

Cotton.

1. No deduction in tare, &c., allowed.
2. Rates of storage.

Flour.

3. City Council of Charleston to appoint Inspector of; term of office, &c.
4. Flour, &c., to be inspected before sale. Not to apply to flour, &c., for export.
5. Regulations as to barrels, &c.
6. To contain what quantity, &c.
7. Manner of inspecting; branding; designation of brands.
8. Inspector's fees.
9. Penalty for offering for sale flour, &c., not inspected.
10. For altering brands, &c.
11. For interfering with Inspector.
12. For Inspector's purchasing for sale.
13. Inspector may appoint deputy, when.
14. To take oath, &c.
15. Disposition of fines, &c.
16. Flour, &c., in transit, not subject to inspection.

Grain.

17. Tolls allowed for grinding.
18. Penalty for taking more than allowed.
19. City Council of Charleston to regulate sale of.

Naval Stores.

20. City Council of Charleston to appoint Inspectors of.
21. Inspectors to give bond, &c.
22. To examine crude turpentine, &c.
23. To weigh, search, try and brand.
24. Fees allowed; to have lien for.
25. Penalty for altering brands, &c., and interfering with Inspector; Inspector not to purchase, &c.
26. Weight of barrel of crude turpentine; quantity of tar to a barrel.

Pitch, &c., in Casks and Barrels.

27. Casks and barrels to be branded, &c. Penalty for failure.
28. Penalty for exporting without brands, &c.
29. Barrels may be opened by purchasers where fraud is suspected, &c.
30. To be done at their risk, &c.

Pork and Beef.

31. Barrels to contain and weigh what; how to be packed.
32. Penalty for killing cattle for packing not previously penned twelve hours.
33. Barrels to be made of seasoned white or water oak.

Rice.

34. Fraudulent mixtures to be forfeited to State. How examined.
35. Proceedings in case sellers do not nominate arbitrators.

Staves and Shingles.

36. Size of pipe staves, &c.

Cotton.

SECTION 1. That the custom of making a deduction from the actual weight of bales of unmanufactured cotton, as an allowance for tare or draft thereon, is abolished; and all contracts made in relation to such cotton shall be deemed and taken as referring to the true and actual weight thereof, without deduction for any such tare or draft.

No deduction in Tare, &c., allowed.
1846, XI, 368, § 1.

SEC. 2. That the rates of storage of cotton shall not exceed twelve and a half cents per week, for each bale of cotton.

Rate of storage.
1805, VII, 121, § 1.

Flour.

SEC. 3. That the City Council of Charleston shall, on or before the twenty-fifth day of December, A. D. 1872, and on or before the same day in every second year thereafter, appoint a competent person as Inspector of Flour for the City of Charleston, who shall hold his office for two years, and who shall give bond to the State of South Carolina, with good security, to be approved by the City Council of Charleston, in the penal sum of two thousand dollars, conditioned for the faithful discharge of the duties of the said office.

City Council of Charleston to appoint Inspector of; term of office, &c
1850, XII, 9, § 8; 1851, XII, 317, § 2.

SEC. 4. It shall not be lawful to sell in the City of Charleston, any barrel, half-barrel, or bag of flour or meal, of wheat, rye or corn, unless the same shall have been first submitted to the view and examination of the Inspector of the aforesaid city, and by him examined in some lot, street or warehouse, open and accessible to all persons: *Provided, however*, That flour of wheat, rye or corn, manufactured in the city of Charleston for export to any other port or ports beyond the limits of the State, shall not be liable to inspection in the said city of Charleston.

Flour, &c., to be inspected before sale.
1860, XII, 8, § 1.

Not to apply to flour, &c., for export.
1868, XIV, 107, § 1.

SEC. 5. Each and every cask or barrel containing flour or meal of wheat, rye or corn, brought into, or manufactured in the city of Charleston, for sale, shall be well made, of good seasoned materials, and sufficiently hooped and nailed, and all casks or barrels not made as aforesaid, and not in merchantable condition, but capable of being made so at a reasonable expense, the said Inspector shall cause to be repaired, and put in merchantable condition, at the expense of the owner thereof.

Regulations as to barrels, &c.
1850, XII, 8, § 2.

SEC. 6. Each and every barrel submitted for inspection, as aforesaid, slall contain such quantity of flour or meal as upon inspection shall be found to be of the net weight of one hundred and ninety-six pounds; and each and every half barrel shall contain such quantity as shall be of the net weight of ninety-eight pounds; and all barrels or half barrels containing a less quantity than as aforesaid, the said Inspector shall cause to be made of full weight, at the expense of the owners thereof.

To contain what quantity, &c.
Ib., § 3.

Manner of inspecting; branding; designation of brands

Ib., § 4; 1856, XII, 517, 1862, XIII, 432.

SEC. 7. Every cask or bag of flour or meal, submitted to the view and examination of the Inspector as aforesaid, shall by him be searched and tried, by boring on the head and piercing it through with an instrument by him to be provided; and he shall, afterwards, plug the same with soft seasoned wood, to prevent the entrance of water therein: and, if the Inspector shall judge the same to be merchantable, he shall brand every such cask or bag with the word "Charleston," and shall brand the degrees of fineness of which he shall, on inspection, determine the said flour or meal to be, in letters of half an inch in length, which degree shall be distinguished as follows, to wit: "Family," "Extra," "Super," "Fine," "First Middlings," or "Second Middlings," "Ship Stuff," "First Rye," "Second Rye," "First Corn," or "Second Corn," as the case may be; but if, on examination, it proves unsound, then he shall mark the cask or bag with the Broad Arrow.

Inspector's fees.

1857, XII, 316, § 1; 1859, XII, 8, § 4; 1866, XIII, 432.

SEC. 8. The Inspector shall be allowed not more than two and a half cents per package for inspecting, which shall be paid by the owner thereof, or his agent.

Penalty for offering for sale flour, &c., not inspected.

1859, XII, 8, § 4.

SEC. 9. No barrel, half barrel, or bag of flour or meal, not examined and inspected, as aforesaid, shall be offered for sale, under the penalty of five dollars for each and every barrel, half barrel, or bag of flour or meal so offered for sale, to be paid by the seller thereof.

For altering brands, &c.

Ib., § 5.

SEC. 10. If any person shall alter, erase, or deface the mark or brand made by the Inspector, on any barrel, half barrel, or bag of flour or meal, or shall brand any barrel, half barrel, or bag of flour or meal, which has not been inspected, with a mark or brand, similar to, or in imitation of the Inspector's mark or brand, or shall re-pack a barrel, half barrel, or bag of flour or meal previously inspected, without first erasing the Inspector's marks thereon, the person so offending shall forfeit and pay, for each and every such offence, the sum of fifty dollars.

For interfering with Inspector.

Ib., § 6.

SEC. 11. If any person shall prevent, or attempt to prevent, the Inspector from exercising the duties assigned to him, he shall forfeit and pay, for every such offence, the sum of twenty dollars.

For Inspector's purchasing for sale.

Ib., § 7.

SEC. 12. The Inspector of flour and meal shall not purchase, either directly or indirectly, any flour or meal, for sale, under the penalty of ten dollars for each and every barrel, half barrel, or bag of flour or meal by him so purchased and sold.

Inspector may appoint deputy, when.

Ib., § 9.

SEC. 13. In case of sickness, or temporary absence of the Inspector, or, if necessary for the convenient dispatch of the duties of his office, he is hereby empowered to appoint a Deputy, to act for him during such sickness, absence, or such time as he may think proper, who shall also be made liable to the same penalties, and shall take the oath hereinafter prescribed.

SEC. 14. The Inspector of flour and meal, under this Chapter, shall, before he proceeds to perform the duties, make oath or affirmation, as the case may be, before the Clerk of the Court of Common Pleas, that, without fear, favor, or affection, malice, partiality, or respect of persons, he will diligently and carefully examine and inspect, to the best of his skill and ability, all flour or meal offered to him for inspection, and that he will brand, or cause to be branded as merchantable, all barrels, half barrels, or bags of flour or meal that do not appear sufficiently sweet and sound, and no other, according to the best of his knowledge and judgment; and also the oath provided in the Constitution.

To take oath, &c.
Ib., § 10.

SEC. 15. All fines and forfeitures incurred under the foregoing provisions shall be recovered by indictment, and appropriated, one half to the informer, and the other half to the use of the State.

Disposition of fines, &c.
Ib., § 11.

SEC. 16. That no flour merely passing through the city of Charleston, from any place in this or any other State, to another port or place out of this State, shall be required to be inspected in the said city of Charleston, provided such flour be distinctly marked before it comes into the said city, upon the barrels or bags, with the name of the place from whence it comes, and the name of the port or place of its destination, with the words "in transit" between the names of the said two places.

Flour, &c., in transit not subject to inspection.
1856, XII, 548, § 2.

Grain.

SEC. 17. That no person shall take more toll for grinding corn, wheat, rye, or any other grain, into good meal or flour, than one-eighth part for any quantity under ten bushels, and for ten bushels, or any quantity above, at one time brought, one-tenth part only; and that all grain as aforesaid, chopped for homony, feeding stock, or for distilling, one-sixteenth part.

Tolls allowed for grinding.
1785, IV, 652, 1

SEC. 18. Any person or persons taking more toll than hereinbefore directed, shall be subject to pay a fine to the amount of ten times the value of the toll so taken, to be recovered in the most summary way, before the nearest Trial Justice; one-half to the prosecutor, and the other half to the person aggrieved.

Penalty for taking more than allowed.
Ib., § 2.

SEC. 19. That the City Council of Charleston shall have full power and authority to regulate and control the sale of grain, by measurement or weight, or both, sold within the corporate limits of the city, in such manner as will insure a fair, equal and uniform sale and measurement of the same.

City Council of Charleston to regulate sale of.
1823, VII, 143, § 1.

Naval Stores.

SEC. 20. That the City Council of Charleston are authorized to appoint such number of Inspectors of Naval Stores as the wants of the trade may, in their judgment, from time to time require.

City Council of Charleston to appoint Inspectors of.
1858, XII, 744, § 1.

Inspectors to give bond, &c.
1856, XII, 584, § 5.

SEC. 21. Each of the Inspectors so appointed shall give bond in the sum of two thousand dollars, conditioned for the faithful discharge of his duties.

To examine crude turpentine, &c.
Ib., 583, § 1.

SEC. 22. It shall be the duty of the Inspectors of Naval Stores for the city of Charleston to examine and inspect any crude turpentine or other rosins of grades other than those known as "common" or "number two," which may be offered for sale in the city of Charleston, and which may be submitted for examination by the owner or other person having charge of the same.

To weigh, search, try and brand.
Ib., § 2; 1746, III, 687, § 4.

SEC. 23. Every barrel of crude turpentine or rosin submitted to an Inspector as aforesaid shall be by him weighed and searched and tried, and the Inspector shall brand every such barrel or cask with the word "Charleston," and shall brand thereon, in characters known to the trade, the quality of said turpentine or rosin, together with the weight of the same expressed in figures, and every barrel of rosin and turpentine shall be clean strained and merchantable, without chips, leaves, filth or dirt.

Fees allowed. To have lien for.
1856, XII, 583, § 3.

SEC. 24. For every barrel of turpentine or rosin weighed by the Inspector, he shall be entitled to three cents, and for every barrel inspected and branded as herein directed, three and one-quarter cents, to be paid by the owner of said turpentine or his agent, and the Inspector shall have a lien on said barrels for the amount due.

Penalty for altering brands, &c., and interfering with Inspector.
Ib., 584, § 4.

SEC. 25. Any person who shall alter or erase or deface the mark or brand made by the Inspector shall be subject to a penalty of fifty dollars for every such offence; and any person attempting to prevent the Inspector from exercising his duties shall be subject to a penalty of twenty dollars for each offence, all of which shall be recoverable by indictment in any Court of competent jurisdiction; and the Inspector shall not be permitted to purchase, directly or indirectly, any turpentine or rosin for sale or exportation, under a penalty of ten dollars per barrel.

Inspector not to purchase, &c.

Weight of barrel of crude turpentine; quantity of tar to a barrel.
1870, XIV, 350, § 1; 1746, III, 687, § 4.

SEC. 26. That, in the absence of satisfactory proof of a special stipulation to the contrary, it shall be presumed and held that the quantity and weight of crude turpentine, to make a barrel thereof, is two hundred and eighty pounds, and that the quantity of tar to make a barrel thereof is thirty-two gallons.

Pitch, &c., in Casks and Barrels.

Casks and barrels to be branded, &c.
Ib., 686, § 1.

SEC. 27. That every person who shall sell or expose for sale in any part of this State any pitch, tar, rosin, turpentine, beef or pork, in any casks or barrels, shall first set on every such cask or barrel a burnt mark, with the first letter of the Christian name, and the surname at length, of the maker of such commodity, with an iron brand; and if any person shall, in any port or place of exportation within this State, sell or expose to sale any of the said commodities hereinbefore enumerated, in any cask or barrel, before the same be marked and branded as aforesaid, every

such person shall, for every such cask or barrel, forfeit the sum of two dollars to the person or persons who will inform and sue for the same, to be recovered before any Trial Justice.

Penalty for failure.

SEC. 28. If any merchant, factor, trader, or other person, shall ship or put on board any ship or vessel any of the said commodities hereinbefore enumerated, in any casks or barrels, with intent to export the same before such casks or barrels be marked and branded as aforesaid, every such merchant, factor, trader, or other person, shall forfeit the sum of two dollars for every such cask or barrel, to be sued for, recovered and disposed of in manner aforesaid.

Penalty for exporting without brands, &c.
Ib.

SEC. 29. If any fraud or abuse shall be suspected in any barrel or barrels of pitch or rosin which shall be brought to market or exposed to sale, the person who shall treat for the purchase of such pitch or rosin shall be at liberty to cut open as many barrels of the same as he shall think proper, which shall be liable to be viewed, judged and forfeited, as is directed in the case of rice, and where any pitch or rosin shall be condemned as fraudulent by the person or persons empowered (as is directed with respect to rice) to view and judge the same, all such condemned pitch and rosin shall be forfeited, and sold by the State Treasurer, and applied to such uses as is directed in the case of rice.

Barrels may be opened by purchasers where fraud is suspected, &c.
Ib., 688, § 8.

SEC. 30. That where any pitch or rosin shall be ordered to be cut open as aforesaid, without the consent of the owner or person offering or exposing the same for sale, the same shall be done at the risk of the person who shall cause such pitch to be so cut open, that is to say, if such pitch or rosin shall not be condemned as fraudulent by the person or persons empowered to view and judge the same, then the person who caused the said pitch or rosin to be so cut open and examined, shall take to himself every such barrel so cut open, and which shall not be condemned as aforesaid, and shall pay to the owner or person offering the same to sale, the current sum or price which good pitch or rosin shall then be at, at that port or place, anything hereinbefore contained to the contrary notwithstanding.

To be done at their risk, &c.
Ib.

Pork and Beef.

SEC. 31. That every barrel of pork or beef packed and sold in this State shall contain thirty gallons and two hundred pounds weight of wholesome, well cured meat, in the same, which shall be weighed by the packers, and well packed with salt and pickle, each piece not to weigh more than eight pounds, and not to be cut or mangled further than to take out the kernels or where the bones require it, and not more than two heads in one barrel of pork No beef's heads or shanks shall at all be packed.

Barrels to contain and weigh what; how to be packed.
Ib., 687, § 4.

SEC. 32. That in case any person shall kill any cattle to put in barrels for sale, without having first penned them twelve hours before killing them, every such person shall forfeit the sum of ten dollars, current money, for every head of cattle so killed, to the person who will sue for the same, to be recovered before any Trial Justice.

Penalty for killing cattle for packing not previously penned 12 hours.
Ib., 688, § 5.

To be made of seasoned white or water oak.
Ib., 687, § 3.

SEC. 33. That every person and persons in this State shall make his and their casks for packing beef or pork, of sound, dry and well seasoned white or water oak timber, without sap, the heads as well as bodies of which casks shall be made tight, so as to hold pickle, and shall fill the said casks with water before the same are packed with any beef or pork.

Rice.

Fraudulent mixtures to be forfeited to the State.
Ib., 687, § 2; 1783, IV, 510, § 1.

SEC. 34. That if any planter or other person shall sell or expose for sale to any merchant, factor or any other person, at any port or place of exportation within this State, any casks or barrels of rice which, upon opening or uncasking the same, shall be found to contain any unfair and fraudulent mixture of small or damaged rice, then, and in every such case, the seller of the said rice, or person offering the same to sale, shall immediately, on request of the buyer, or person offering to buy the same, name one indifferent person, being a freeholder, and the said buyer another, to view the said rice, and if such two persons shall agree in opinion and certify the same in writing under their hands, that such rice was deceitfully and fraudulently packed and exposed for sale, every such cask or barrel, so fraudulently packed and exposed for sale, shall be forfeited to the State, and the same shall be sold or caused to be sold by the State Treasurer, or by the person or persons who shall condemn the same, for the use aforesaid, who shall be allowed, thereout, five per cent. for their trouble.

How examined.

Proceedings in case sellers do not nominate arbitrators.
1746, III, 687, § 2.

SEC 35. That if the seller shall refuse to nominate a person to view the said rice, then the buyer shall nominate both the persons to view such rice, who shall have the same power as if one had been named by the seller and one by the buyer: *Provided*, That in case the said persons nominated as aforesaid shall not agree in opinion, they shall have power to nominate a third person, being a freeholder as aforesaid, who shall have the same power as the first two by this Chapter have; and in case either of the said two persons shall refuse or neglect to join, or cannot agree in nominating such third person, then and in such case any Trial Justice, on notice given by both or either of the said persons, shall, and he is hereby, required to nominate such third person, which third person shall have the same power in the premises as if he had been nominated by both. And such adjudication and certificate shall be made within twenty-four hours from the first application, and the said certificate shall be deemed a sufficient condemnation of the said rice, to warrant the sale thereof as aforesaid; any law, statute, usage or custom, to the contrary notwithstanding.

Staves and Shingles.

Size of pipe staves, &c.
Ib., 690, § 13.

SEC. 36. That all staves to be made for exportation, and all shingles which shall be offered to sale in this State, shall be made of good and sound timber, and shall be of the following dimensions, to wit: Each pipe stave to be made of white oak, fifty eight inches long, and not less than three-quarters of an inch thick at the thin edge, and three inches

broad, clear of sap; each hogshead stave to be made of red or white oak, forty-two inches long, not to be less than three-quarters of an inch thick at the thin edge, and four inches broad, clear of sap; and each barrel stave, of red or white oak, to be thirty inches long, not to be less than half an inch thick at the thin edge, and four inches broad, clear of sap; and each shingle to be twenty-two inches in length, and not less than half an inch thick at the thick end, and well shaved, so as not to be winding, and not less than three inches and a half broad, clear of sap.

CHAPTER LII.

Of Auctions and Vendues.

Sec.
1. Auctioneers, &c, to give bond to city or town where they reside.
2. Purchasers at sales refusing to comply with terms, &c, liable for losses on a resale.
3. Remedy against auctioneers.
4. Responsibility of, for loss of goods.

Section 1. That every vendue master and auctioneer, before he shall act in such capacity, shall be compelled to give to the Council of the city or town where he may reside, full and ample security for the due and faithful performance of his duty as auctioneer or vendue master, as the case may be.

Auctioneers, &c, to give bond, &c.
1823, VI, 209, § 3.

Sec. 2. That every person who shall purchase any lands, houses, horses, cattle, ships, boats, or other vessels, goods, wares and merchandise, at any public sale in this State, and which purchase shall be entered in the books of the vendue masters so selling such property, such person refusing to comply with the conditions of the said sale within seven days thereafter, shall be liable to all losses arising thereon, to the original owner; and for the more speedy ascertaining said losses, the vendue master is authorized to resell such lands, houses, horses, cattle, ships, boats, or other vessels, goods, wares and merchandise, on the original conditions, giving seven days' notice of said sale; and whatever deficiency shall arise on said purchaser's non-compliance, the vendue master shall recover, at the first ensuing Court having jurisdiction, such loss, from every person so declining to comply with the conditions of the original purchase, together with the commissions and other expenses attending the sale. No judgment given in any such cause shall be arrested or staid for or by reason of any error or mistake in the proceedings.

Purchasers at sales refusing to comply with terms liable for losses, &c., on resale.
1785, IV, 672, § 10.
1 Mill., 293; 1 McM., 453.

Sec. 3. The owners of property placed in the hands of vendue masters or auctioneers, either for public or private sale, are authorized and empowered to recover from said vendue masters, in the most summary manner, before any Court of competent jurisdiction in the State, for goods or other property by them sold on account of said owners. Judgment given in such case shall not be arrested or stayed for or by reason of any error or mistake in the proceedings.

Remedy against auctioneers.
1815, VI, 3, § 1.
1 McC., 38, 120; 2 N. & McC., 455; 3 McC., 93.

Responsibility of, for loss of goods, &c.
Ib, § 2.

SEC. 4. Nothing in this Chapter shall be so construed or understood as to render vendue masters or auctioneers responsible for the loss of goods or other property occasioned by the act of a public enemy, the act of God, or by any other cause which man could not prevent or foresee.

CHAPTER LIII.

OF WEIGHTS AND MEASURES.

SEC.
1. To be regulated by United States standard.
2. To be kept by State Treasurer.
3. Clerks of Court to keep. Same to be purchased by Governor.

To be regulated by U. S. standard.
New. U. S. Con., Art. I, § 8.

SECTION 1. Weights and measures shall be regulated by the standard fixed by the Congress of the United States.

To be kept by State Treasurer.
J. R. U. S. Congress, 1836, 5 Stat at Large 133, No. 7; 1768, IV, 290, § 5; 1783, IV, 540, §§ 1, 2.

SEC. 2. Such weights and measures as have been, or may hereafter be, furnished this State by the Government of the United States, shall be kept by the State Treasurer; and the said weights and measures shall be deemed and taken to be the standard weights and measures, by which all the weights and measures in this State shall be regulated.

Clerks of Court to keep
1849, XI, 175; 1850, XII, 300, § 1.

Same to be purchased by Governor.

SEC. 3. The Clerk of the Court of Common Pleas and General Sessions of each County in this State shall furnish, and is required to keep in his office, the weights and measures established by law, which shall be the standards of all other weights and measures in said County, and to which any person shall have free access to test the same; and the Governor of the State is authorized and required to purchase such standard weights and measures out of the fines and forfeitures incurred in their respective Counties.

CHAPTER LIV.

OF SHIPPING AND PILOTAGE.

SEC.
Boats and Steamboats.
1. Boats drawing three feet or more to have draught and owners' name legibly marked
2. One hundred dollars' penalty for violating last Section.
3. Penalty for stealing or letting loose boats, canoes, &c.
4. Master liable for injury by explosion of steamboat boilers, unless unavoidable.
5. Owners liable for good conduct of master.
Pilotage.
6. Governor to appoint a Board of Pilot Commissioners.
7. Term of office of Commissioners. Vacancy.
8. To grant licenses to pilots.
9. Who may act as pilots.
10. City Council vested with control of Charleston harbor.

Boats and Steamboats.

SECTION 1. That every boat or pettyauger, drawing more than three feet water when loaded, used or to be used in any of the rivers in this State, shall have her draught of water fairly and visibly marked on her stern post, in feet and half feet, and shall likewise have the owner's name and place of abode, that is to say, the town or County in which he lives, plainly marked in legible characters, in some open visible part of the said boat or pettyauger.

To have owner's name and draught of water legibly marked.

1738, VII, 187, § 4.

SEC. 2. Every owner or owners of any such boat or pettyauger drawing more than three feet water, as aforesaid, who shall employ or make use of the same in any of the rivers in this State, or in passing through any of the creeks made navigable by authority of law, without having their respective draughts of water, and also the owner or owners' name or names and place of abode plainly marked thereon, as aforesaid, shall forfeit and pay the sum of one hundred dollars current money, for every time such boat or pettyauger shall pass through any of the said creeks or cuts, as aforesaid, to any person or persons that will inform and sue for the same, to be recovered by action in any Court of competent jurisdiction.

$100 penalty for neglect.

Ib., § 4.

SEC. 3. That any person or persons who shall steal, take away, or let loose, any boat, pettyauger or canoe, or steal or take away any grappling, painter, rope, sail or oar from any landing or place whatsoever, where the owners or persons in whose service or employ they were last in, had made fast or laid the same, (except all boats or canoes as are let loose from another boat, canoe or vessel,) shall be liable to such fine or fines as the Court of Sessions shall impose, if the matter of fact be felony or larceny, and make good to the person or persons injured all damages they shall sustain; and in case the matter of fact be a trespass only, the person or persons committing such offence shall make good to the person injured all damages that may accrue thereby, and, moreover, forfeit and pay, for every time he or they shall be found guilty thereof, the sum of twenty dollars, one moiety thereof to be paid to the State Treasurer, for the public use, the other moiety to him or them that will sue and prosecute for the same in any Court of competent jurisdiction in this State, besides his charges therein expended.

Any person who shall steal or let loose any boat, &c., how to be punished.

1695, II, 165 § 1. Amended by Com'rs.

Penalty for stealing, &c., boats, &c.

SEC. 4. That if any person within this State shall suffer injury to life or limb, by the explosion of any boiler of a steamboat, or by reason of the unskillfulness, mismanagement or negligence of the person or persons having the charge or command of the said boat, or her engine, or by reason of any defect in the said engine or boat, or by reason of the deficiency or want of any matter or thing necessary and proper for the management or seaworthiness of the said boat, the Captain, Master or other person having command or charge of such boat, shall, for every such injury, be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the

Master liable for explosion of steamboat boiler, unless unavoidable.

1837, VI, 571, § 1.

Court before which such conviction shall be had: *Provided, however*, That nothing contained in this and the following Section shall be so construed as to prevent the defendant from showing, on the trial, that the injury arose from unavoidable accident, and without fault on his part: and that said Sections shall not in any manner be construed to restrict the liability of any person to be indicted, tried and punished, under any law now existing.

Owners liable for good conduct of master.
Ib., § 2.

SEC. 5. The owners of every steamboat shall be deemed, and are hereby made, responsible for the good conduct of the Masters or Captains employed by them; and if any penalty incurred by the Master, Captain or other person having the command or charge of a steamboat or her engine, cannot be collected of him by due course of law, the same may be recovered of the owners of the boat in whose service and employment he was at the time such offence was committed, jointly and severally, in the same manner as if they were sureties of such Master, Captain or person in command or charge as aforesaid.

Pilotage.

Governor to appoint Commissioners.
1868, XIV, 170, § 1.

SEC. 6. That the Governor of the State shall appoint a Board of Commissioners of Pilots, to consist of three seafaring men, one of whom shall be a first-class pilot.

Term of office. Vacancy.
Ib., 3

SEC. 7. The members of the Board of Commissioners herein provided for shall hold their office for two years, unless sooner removed by the Governor. When a vacancy occurs a new appointment shall be made for the full term.

To grant licenses.
Ib., 1.

SEC. 8. Said Board shall be authorized to grant license for pilots as first, second, third and fourth class, as they may be entitled from their skill and knowledge of the business.

Pilots.
Ib., § 2.

SEC. 9. It shall be lawful for any person or persons to act as pilots in this State who shall be examined and approved by the Board of Commissioners herein provided for.

City Council vested with control of Charleston harbor.
1783, VII, 98, § 4.
3 Strob., 594; 2 Spears, 769; 9 Rich., 269.

SEC. 10. That the City Council of Charleston are vested with full power and authority, from time to time, under their common seal, to make and establish such by-laws, rules and ordinances, respecting the harbor and the regulation of seamen, as to them shall appear expedient and necessary; and they may also take such effectual measures for carrying into execution all laws in force respecting the said harbor as to them may seem proper.*

*For regulations concerning pilotage of bar and harbor of Charleston, see Horsey's Compilation of City Ordinances, p. 83.

CHAPTER LV.

OF MONEY, BILLS OF EXCHANGE, AND PROMISSORY NOTES.

SEC.

Confederate States Notes.

1. Debts contracted with reference to Confederate money to be determined by Federal money.
2. Value of Federal money: 1. 1861—January and February. 2. March. 3. April. 4. May. 5. June. 6. July and August. 7. September. 8. October. 9. November. 10. December. 11. 1862—January. 12. February. 13. March. 14. April. 15. May. 16. June. 17. July. 18. August. 19. September. 20. October. 21. November. 22. December. 23. 1863—January. 24. February. 25. March. 26. April. 27. May. 28. June. 29. July. 30. August. 31. September. 32. October. 33. November. 34. December. 35. 1864—January. 36. February. 37. March. 38. April. 39. May. 40. June. 41. July. 42. August. 43. September. 44. October. 45. November. 46. December. 47. 1865—January. 48. February. 49. March. 50. April and May.
3. One day, smallest division of time.

Money of Account.

4. Dollars, dimes, cents and mills.

Interest of Money.

5. Legal rate to be seven per cent.
6. Decrees and judgments to draw interest.
7. Usury acts repealed.

Bills of Exchange and Promissory Notes.

8. Promissory notes made negotiable and assignable.
9. Notes made before death, and negotiated after, binding on estate; proviso.
10. Inland bills of exchange to be protested if not paid; fees for protesting.
11. Endorser not to be held unless protest is made.
12. Protest unnecessary if bill is for less than $100.
13. Bill of exchange accepted for debt, to be accounted a payment.
14. Drawer, &c., not to be discharged.
15. Protest good evidence if Notary be dead or absent.
16. Days of grace on bills payable at sight.
17. Protested bill to carry interest.
18. Drawers and endorsers may be sued jointly or separately.
19. Damages allowed upon certain protested bills.
20. Jury may render verdict for difference of exchange on foreign bills.
21. Notes, &c., for less than one dollar, void; penalty for issuing.

Confederate States Notes.

SECTION 1. That the value of all debts and obligations, whether under seal or not under seal, created or contracted in Confederate States notes, or with reference to Confederate States notes as a basis of value, issued by the so-called Confederate States Government, or in or by any bills, bonds or notes assimilated or made equivalent in value to Confederate States notes by any law or custom of trade during the years 1861, 1862, 1863, 1864 and 1865, shall be determined by the value of said Confederate States notes in the lawful money of the United States at the time such debts or obligations were created or contracted.

Debts contracted with reference to Confederate money to be determined by Federal money.
1869, XIV, 277, § 1

SEC. 2. That the value of one dollar of lawful money of the United States in said Confederate States notes is declared as follows, namely:

Value of Federal money.—Ib., § 2.

1. During January and February, 1861, one dollar of lawful money was equal to one dollar and five cents of Confederate States notes.

1861—January and February.

2. During March, 1861, one dollar of lawful money was equal to one dollar and six cents of Confederate States notes.

March.

3. During April, 1861, one dollar of lawful money was equal to one dollar and seven cents of Confederate States notes.

April.

4. During May, 1861, one dollar of lawful money was equal to one dollar and eight cents of Confederate States notes.

May.

5. During June, 1861, one dollar of lawful money was equal to one dollar and nine cents of Confederate States notes.

June.

July and August. 6. During July and August, 1861, one dollar of lawful money was equal to one dollar and ten cents of Confederate States notes.

September. 7. During September, 1861, one dollar of lawful money was equal to one dollar and eleven cents of Confederate States notes.

October. 8. On the first day of October, 1861, one dollar of lawful money was equal to one dollar and twelve cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of October, 1861, when one dollar of lawful money was equal to one dollar and fifteen cents of Confederate States notes.

November. 9. On the first day of November, 1861, one dollar of lawful money was equal to one dollar and fifteen cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth of November, 1861, when one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes.

December. 10. On the first day of December, 1861, one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of December, 1861, when one dollar of lawful money was equal to one dollar and thirty cents of Confederate States notes, and, from day to day thereafter, regularly decreased in value until the thirty-first day of December, 1861, when one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes.

1862—January. 11. On the first day of January, 1862, one dollar of lawful money was equal to one dollar and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of January, 1862, when one dollar of lawful money was equal to one dollar and twenty-two cents of Confederate States notes.

February. 12. On the first day of February, 1862, one dollar of lawful money was equal to one dollar and twenty-two cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-eighth day of February, 1862, when one dollar of lawful money was equal to one dollar and forty-eight cents of Confederate States notes.

March. 13. On the first day of March, 1862, one dollar of lawful money was equal to one dollar and forty-eight cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of March, 1862, when one dollar of lawful money was equal to one dollar and seventy-three cents of Confederate States notes.

April. 14. On the first day of April, 1862, one dollar of lawful money was equal to one dollar and seventy-three cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of April, 1862, when one dollar of lawful money was equal to one dollar and eighty-seven cents of Confederate States notes.

May. 15. On the first day of May, 1862, one dollar of lawful money was equal to one dollar and eighty-seven cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of May, 1862, when one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes.

16. On the first day of June, 1862, one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of June, 1862, when one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes. June.

17. On the first day of July, 1862, one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the twentieth day of July, 1862, when one dollar of lawful money was equal to one dollar and eighty-three cents of Confederate States notes, and from day to day thereafter, regularly increased in value, until the thirty-first day of July, 1862, when one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes. July.

18. On the first day of August, 1862, one dollar of lawful money was equal to one dollar and ninety cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of August, 1862, when one dollar of lawful money was equal to two dollars and seventeen cents of Confederate States notes. August.

19. On the first day of September, 1862, one dollar of lawful money was equal to two dollars and seventeen cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of September, 1862, when one dollar of lawful money was equal to two dollars and twenty-three cents of Confederate States notes. September.

20. On the first day of October, 1862, one dollar of lawful money was equal to two dollars and twenty-three cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of October, 1862, when one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes. October.

21. On the first day of November, 1862, one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1862, when one dollar of lawful money was equal to two dollars and thirty-three cents of Confederate States notes. November.

22. On the first day of December, 1862, one dollar of lawful money was equal to two dollars and thirty-three cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of December, 1862, when one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes. December.

23. On the first day of January, 1863, one dollar of lawful money was equal to two dollars and thirty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1863, when one dollar of lawful money was equal to one dollar and ninety-four cents of Confederate States notes. 1863—January.

24. On the first day of February, 1863, one dollar of lawful money was equal to one dollar and ninety-four cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the twenty-eighth day of February, 1863, when one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes. February.

March. 25. On the first day of March, 1863, one dollar of lawful money was equal to one dollar and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of March, 1863, when one dollar of lawful money was equal to three dollars and fifty cents of Confederate States notes.

April. 26. On the first day of April, 1863, one dollar of lawful money was equal to three dollars and fifty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of April, 1863, when one dollar of lawful money was equal to three dollars and eighty cents of Confederate States notes.

May. 27. On the first day of May, 1863, one dollar of lawful money was equal to three dollars and eighty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of May, 1863, when one dollar of lawful money was equal to four dollars and forty-eight cents of Confederate States notes.

June. 28. On the first day of June, 1863, one dollar of lawful money was equal to four dollars and forty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of June, 1863, when one dollar of lawful money was equal to five dollars and thirteen cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of June, 1863, when one dollar of lawful money was equal to five dollars and forty-seven cents of Confederate States notes.

July. On the first day of July, 1863, one dollar of lawful money was equal to five dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of July, 1863, when one dollar of lawful money was equal to seven dollars and seventy five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of July, 1863, when one dollar of lawful money was equal to ten dollars and ninety-three cents of Confederate States notes.

August. 30. On the first day of August, 1863, one dollar of lawful money was equal to ten dollars and eighty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of August, 1863, when one dollar of lawful money was equal to twelve dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of August, 1863, when one dollar of lawful money was equal to eleven dollars and two cents of Confederate States notes.

September 31. On the first day of September, 1863, one dollar of lawful money was equal to eleven dollars and two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of September, 1863, when one dollar of lawful money was equal to ten dollars and sixty-eight cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of September, 1863, when one dollar of lawful money was equal to nine dollars and twenty-two cents of Confederate States notes.

October. 32. On the first day of October, 1863, one dollar of lawful money was equal to nine dollars and twenty-two cents of Confederate States notes,

and from day to day thereafter regularly decreased in value until the fifteenth day of October, 1863, when one dollar of lawful money was equal to eight dollars and one cent of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-fist day of October, 1863, when one dollar of lawful money was equal to eight dollars and ninety-six cents of Confederate States notes.

33. On the first day of November, 1863, one dollar of lawful money was equal to eight dollars and ninety six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of November, 1863, when one dollar of lawful money was equal to ten dollars and fifty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1863, when one dollar of lawful money was equal to thirteen dollars and fifty-one cents of Confederate States notes. November.

34. On the first day of December, 1863, one dollar of lawful money was equal to thirteen dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of December, 1863, when one dollar of lawful money was equal to fourteen dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of December, 1863, when one dollar of lawful money was equal to thirteen dollars and ninety cents of Confederate States notes. December.

35. On the first day of January, 1864, one dollar of lawful money was equal to thirteen dollars and ninety cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of January, 1864, when one dollar of lawful money was equal to twelve dollars and ninety cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1864, when one dollar of lawful money was equal to twelve dollars and eighty-two cents of Confederate States notes. 1864—January.

36. On the first day of February, 1864, one dollar of lawful money was equal to twelve dollars and seventy-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of February, 1864, when one dollar of lawful money was equal to thirteen dollars and twelve cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-ninth day of February, 1864, when one dollar of lawful money was equal to sixteen dollars and thirty-five cents of Confederate States notes. February.

37. On the first day of March, 1864, one dollar of lawful money was equal to sixteen dollars and thirty-five cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of March, 1864, when one dollar of lawful money was equal to eleven dollars and seventy-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of March, 1864, when one dollar of lawful money was equal to eleven dollars and fifty-one cents of Confederate States notes. March

April. 38. On the first day of April, 1864, one dollar of lawful money was equal to eleven dollars and forty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of April, 1864, when one dollar of lawful money was equal to twelve dollars and thirteen cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of April, 1864, when one dollar of lawful money was equal to eleven dollars and eleven cents of Confederate States notes.

May. 39. On the first day of May, 1864, one dollar of lawful money was equal to eleven dollars and thirty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of May, 1864, when one dollar of lawful money was equal to ten dollars and forty cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of May, 1864, when one dollar of lawful money was equal to nine dollars and forty-seven cents of Confederate States notes.

June 40. On the first day of June, 1864, one dollar of lawful money was equal to nine dollars and forty-seven cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirtieth day of June, 1864, when one dollar of lawful money was equal to seven dollars and five cents of Confederate States notes.

July. 41. On the first day of July, 1864, one dollar of lawful money was equal to seven dollars and five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of July, 1864, when one dollar of lawful money was equal to eight dollars of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of July, 1864, when one dollar of lawful money was equal to seven dollars and eighty-four cents of Confederate States notes.

August. 42. On the first day of August, 1864, one dollar of lawful money was equal to seven dollars and eighty-four cents in Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of August, 1864, when one dollar of lawful money was equal to eight dollars and sixty-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of August, 1864, when one dollar of lawful money was equal to eight dollars and fifty-four cents of Confederate States notes.

September. 43. On the first day of September, 1864, one dollar of lawful money was equal to eight dollars and fifty-four cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of September, 1864, when one dollar of lawful money was equal to nine dollars and eighty-six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of September, 1864, when one dollar of lawful money was equal to fourteen dollars and six cents of Confederate States notes.

October 44. On the first day of October, 1864, one dollar of lawful money was equal to fourteen dollars and six cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of October, 1864, when one dollar of lawful money was equal to

eleven dollars and sixty-two cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of October, 1864, when one dollar of lawful money was equal to eleven dollars and sixty cents of Confederate States notes.

45. On the first day of November, 1864, one dollar of lawful money was equal to eleven dollars and six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of November, 1864, when one dollar of lawful money was equal to eleven dollars and ninety-one cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirtieth day of November, 1864, when one dollar of lawful money was equal to thirteen dollars and ninety-one cents of Confederate States notes. November.

46. On the first day of December, 1864, one dollar of lawful money was equal to fourteen dollars and nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of December, 1864, when one dollar of lawful money was equal to fourteen dollars and eighty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of December, 1864, when one dollar of lawful money was equal to twenty-two dollars and twenty-two cents of Confederate States notes. December.

47. On the first day of January, 1865, one dollar of lawful money was equal to twenty-six dollars of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of January, 1865, when one dollar of lawful money was equal to twenty-nine dollars and sixty-three cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the thirty-first day of January, 1865, when one dollar of lawful money was equal to twenty-four dollars and thirty-nine cents of Confederate States notes. 1865—January.

48. On the first day of February, 1865, one dollar of lawful money was equal to twenty-four dollars and fifty-one cents of Confederate States notes, and from day to day thereafter regularly decreased in value until the fifteenth day of February, 1865, when one dollar of lawful money was equal to twenty-two dollars and eighty-six cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-eighth day of February, 1865, when one dollar of lawful money was equal to twenty-seven dollars and twenty-two cents of Confederate States notes. February.

49. On the first day of March, 1865, one dollar of lawful money was equal to twenty-seven dollars and fifty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of March, 1865, when one dollar of lawful money was equal to thirty-two dollars and twenty cents of Confederate States notes, and from day to day thereafter regularly increased in value until the thirty-first day of March, 1865, when one dollar of lawful money was equal to forty-six dollars and thirty-five cents of Confederate States notes. March

April.

50. On the first day of April, 1865, one dollar of lawful money was equal to forty-six dollars and thirty-five cents of Confederate States notes, and from day to day thereafter regularly increased in value until the fifteenth day of April, 1865, when one dollar of lawful money was equal to fifty-four dollars and seventy-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twentieth day of April, 1865, when one dollar of lawful money was equal to sixty-eight dollars and forty-nine cents of Confederate States notes, and from day to day thereafter regularly increased in value until the twenty-sixth day of April, 1865, when one dollar of lawful money was equal to one hundred and thirty-two dollars and forty-five cents of Confederate States notes, and, from day to day thereafter, regularly increased in value until the first day of May, 1865, when one dollar of lawful money was equal to eight hundred and thirty-three dollars and thirty-three cents of Confederate States notes.

May.

Division of time.
Ib., 283, § 3.

SEC. 3. In ascertaining the value of contracts under the foregoing provisions, no division of time less than one day will be noticed.

Money of Account.

Dollars, dimes, cents and mills.
1795, V, 262, §. 1, 2.

SEC. 4. All accounts in the public offices of this State, the verdicts of juries on all contracts, and all accounts of the tax collectors, shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and mills or thousandths; a dime being the tenth part of a dollar, a cent the hundreth part of a dollar, and a mill the thousandth part of a dollar.

Interest of Money.

Legal rate to be seven per cent.
1866, XIII, 463, § 1.

SEC. 5. That in all cases of contract for the hiring, lending, or use of money, wherein, by the terms of the original contract, no specific rate of interest shall have been agreed upon, in writing, signed by the party to be charged therewith, the legal interest shall be at the rate of seven per centum per annum.

Decrees and judgments to draw interest.
Ib., 2. Code of Procedure, § 336.

SEC. 6. That in all money decrees and judgments of Courts enrolled or entered, in all cases of accounts stated, and in all cases wherein any sum or sums of money shall be ascertained, and, being due, shall draw interest, according to law, the legal interest shall be at the rate of seven per centum per annum.

Usury Acts, repeal of.
1866, XIII, 463, § 3.

SEC. 7. That all Acts and parts of Acts, limiting the rate of interest recoverable upon contracts for the hiring, lending, or use of money, are hereby repealed.

Bills of Exchange and Promissory Notes.

SEC. 8. That all notes in writing that shall be made and signed by any person or persons, body politic or corporate, or by the servant or agent of any corporation, banker, goldsmith, merchant, or trader, who is usually intrusted by him, her or them, to sign such promissory notes for him, her, or them, whereby such person or persons, body politic and corporate,

his, her, or their servant or agent, as aforesaid, doth or shall promise to pay to any other person or persons, body politic and corporate, his, her, or their order, or unto bearer, any sum of money mentioned in such note, shall be taken and construed to be, by virtue thereof, due and payable to any such person or persons, body politic and corporate, to whom the same is made payable: and also every such note payable to any person or persons, body politic and corporate, his, her, or their order, shall be assignable or endorsible over, in the same manner as inland bills of exchange are or may be, according to the custom of merchants; and the person or persons, body politic and corporate, to whom such sum of money is or shall be by such note made payable, shall and may maintain an action for the same, in such manner as he, she, or they might do, upon any inland bill of exchange, made or drawn according to the custom of merchants, against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed the same; and any person or persons, body politic and corporate, to whom such note, that is payable to any person or persons, body politic and corporate, his, her, or their order, is endorsed or assigned, or the money therein mentioned, ordered to be paid by endorsement thereon, shall and may maintain his, her, or their action for such sum of money, either against the person or persons, body politic and corporate, who, or whose servant or agent, as aforesaid, signed such note, or against any of the persons that endorsed the same, in like manner as in cases of inland bills of exchange. And in every such action the plaintiff or plaintiffs shall recover his, her, or their damages and costs of suit; and if such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or plaintiffs, defendant or defendants, respectively, recovering, may take out execution for such damages and costs.

Promissory notes made negotiable.

3 and 4 Ann, c. 9 1712, II, 544, § 1 1 Bay, 170; 2 Mill, 339; 1 N. and McC., 254; 1 McC., 115; 2 Hill, 654; 2 Brev., 163; 2 Bay, 217; 1 N and McC., 102; 7 McM., 9; 1 Spears, 127; 1 Strob., 44; 5 Rich., 329; 8 Rich., 446; 9 Rich., 297; 12 Rich., 445.

SEC. 9. That if any note or bill, whether filled up before or after having been signed or endorsed, shall be passed away after the death of such drawer or endorser, by an agent duly constituted in his or her lifetime, the same shall be valid and binding on his or her estate, in like manner as though he or she had not died before such passing away: *Provided*, The receiver of such note or bill received the same *bona fide*, without a knowledge of such death, and that the act of the agent would have been binding on the principal if it had been done before such death: *And provided, also*, The act to be done either under the power of attorney or authority, or in relation to the bill or note, be done within nine months after the death of the principal, or of the drawer or endorser of such note or bill.

Notes made before death and negotiated after, binding on estate.

Proviso.

1828, VI, 360, § 1.

SEC. 10. That in case, upon presenting of any inland bill or bill of exchange, the party or parties on whom the same shall be drawn shall refuse to accept the same, the party to whom the said bill or bills are made payable, his servant, agent, or assigns, may and shall cause the said bill or bills to be protested for non-acceptance, as in case of foreign bills of

To be protested if not paid.

3 and 4 Ann, c. 9. 1712, II, 545, § 4. 1 Hill, 44.

exchange; for which protest there shall be paid two dollars and twenty-five cents, and no more.

Endorser not to be held unless protest is made.

Ib., 546, § 5. 1 Bay, 211; 1 Spears, 349.

SEC. 11. No acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever, unless the same be underwritten or endorsed in writing thereupon; and if such bill be not accepted by such underwriting or endorsement in writing, no drawer of any such inland bill shall be liable to pay any costs, damages, or interest thereupon, unless such protest be made for non-acceptance thereof, and, within fourteen days after such protest, the same be sent, or otherwise notice thereof be given, to the party from whom such bill was received, or left in writing at the place of his or her usual abode; and if such bill be accepted, and not paid before the expiration of three days after the said bill shall become due and payable, then no drawer of such bill shall be compellable to pay any costs, damages, or interest thereupon, unless a protest be made and sent, or notice thereof be given, in manner and form above mentioned. Nevertheless, every drawer of such bill shall be liable to make payment of costs, damages and interest upon such inland bill, if any one protest be made of non-acceptance or non-payment thereof, and notice thereof be sent, given or left, as aforesaid.

No protest necessary unless bill be for over $100

Ib., § 6

SEC. 12. No such protest shall be necessary, either for non-acceptance or non-payment of any inland bill of exchange, unless the value be acknowledged and expressed in such bill to be received, and unless such bill be drawn for the payment of one hundred dollars, or upwards.

Bill of exchange taken for, to be accounted payment.

Ib., § 7. 1 Bay, 63.

SEC. 13. If any person accept any such bill of exchange for and in satisfaction of any former debt or sum of money formerly due unto him, the same shall be accounted and esteemed a full and complete payment of such debt, if such person, accepting of any such bill for his debt, doth not take his due course to obtain payment thereof, by endeavoring to get the same accepted and paid, and make his protest, as aforesaid, either for non-acceptance or non-payment thereof.

Not to discharge remedy against drawer.

Ib., § 8.

SEC. 14. Nothing herein contained shall extend to discharge any remedy that any person may have against the drawer, acceptor or endorser of such bill.

Protest good evidence if Notary be dead or absent.

1822, VI, 182, § 2. 1 Hill, 177; 2 Spears, 645.

SEC. 15. That whenever a Notary Public, who may have made protest for non-payment of any inland bill or promissory note, shall be dead, or shall reside out of the district in which said bill or note is sued, his protest of said bill or note shall be received as sufficient evidence of notice in any action by any person whatsoever, against any of the parties to such bill or note.

Days of grace.

1848, XI, § 2, § 1. 2 McC., 136.

SEC. 16. That all bills of exchange, whether foreign or domestic, payable at sight, shall be entitled to the same days of grace as are allowed by law on bills of exchange payable on time.

Protested bill to draw interest. 1786, IV, 71, § 1; 1836, XIII, 43, § 2.

SEC. 17. That where any bill of exchange is or shall be drawn for the payment of any sum of money, for value received, and such bill shall be protested for non-acceptance or non-payment, the same shall carry interest from the time such bill shall become due and payable, after the rate of seven per cent. per annum, until the money therein drawn for, together with damages and costs, be fully satisfied and paid.

Drawers and endorsers may be sued jointly or separately. 1786, IV, 71, § 2. 1 Bay., 461.

SEC. 18. That it shall and may be lawful for any person or persons having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action for principal, damages and interest, against the drawers or endorsers jointly, or against either of them separately, and judgment shall be given for such principal, damages and interest as aforesaid; and all creditors on protested bills of exchange, where the drawers or endorsers shall be dead, shall be upon an equality with bond creditors; any law, usage or custom, to the contrary notwithstanding.

Damages allowed upon certain protested bills. Ib., § 3. 2 Bay., 377; 1 Bay., 461.

SEC. 19. That all bills of exchange drawn upon persons resident within the United States, and out of this State, and returned protested, the damages of such protested bills shall be ten per cent. on the sum drawn for; and all bills in like manner drawn upon persons resident in any other part of North America, or within any of the West India Islands, and protested, the damages shall be twelve and a half per cent.; and all bills drawn on persons resident in any other part of the world, being protested, the damages shall be fifteen per cent. on the sum mentioned in such bills respectively, and all charges incidental thereto, with lawful interest as aforesaid, until the same be paid.

Verdict for difference in exchange. Ib., § 4.

SEC. 20. That in any action which shall be commenced for the recovery of any bill of exchange, or any debt due and made payable in any other country, wherein the plaintiff shall recover, the jury shall have power to find a verdict with such difference of exchange, as shall be just and agreeable to the true difference of exchange; any law, usage or custom, to the contrary notwithstanding.

Notes for less than one dollar void. Penalty for such issue. 1816, VI, 34, § 1.

SEC. 21. That all bills, or promissory notes, payable to order or bearer, which shall be issued by any individual or company, or body corporate, within this State, for any sum or sums under one dollar, shall be void; and any person or persons who shall pass, or attempt to pass, or receive any such bill in payment, shall be liable to be indicted therefor, and, on conviction thereof, shall be fined not exceeding ten dollars.

CHAPTER LVI.

Of Agency.

SEC.
1. Act of agent good if principal be dead, &c.
2. Notes passed by, &c., binding on estate; proviso.

Act of attorney good if principal be dead.
1828, VI, 359, § 1.

SECTION. 1. That if any agent, constituted by power of attorney or other authority, shall do any act for his principal, which would be lawful if such principal were living, the same shall be valid and binding on the estate of said principal, although he or she may have died before such act was done: *Provided*, The party treating with such agent dealt *bona fide*, not knowing, at the time of the doing of such act, that such principal was dead.

Notes passed by, &c., binding on estate.

SEC. 2. If any note or bill, whether filled up before or after having been signed or endorsed, shall be passed away after the death of such drawer or endorser, by an agent duly constituted in his or her lifetime, the same shall be valid and binding on his or her estate, in like manner as though he or she had not died before such passing away: *Provided*, The receiver of such note or bill received the same *bona fide*, without a knowledge of such death, and that the act of the agent would have been binding on the principal if it had been done before such death. The act to be done either under the power of attorney or authority, or in relation to the bill or note, must be done within nine months after the death of the principal or of the drawer or endorser of such note or bill.

Proviso.

Limitation.
Ib.

CHAPTER LVII.

Of Limited Partnerships.

SEC.
1. May be formed by whom, and for what purposes.
2. General and special partners, and their liabilities.
3. Powers of general partners.
4. Partners to sign certificate; its contents.
5. Certificate to be proved.
6. To be filed and recorded in County Clerk's office.
7. Affidavit of sums contributed by each to be filed.
8. When partnership deemed formed.
9. Publication of terms, when and how made.
10. Partnership to be general if not made. Proof of publication.
11. Renewals of partnerships.
12. Dissolved by alterations, and deemed general partnership.
13. Firm name, &c.
14. Suits to be conducted by general partners.
15. Rights of special partners.
16. General partners to account.
17. Punishment of partners for fraud.
18. Sales by insolvent partnership void; judgments, &c., by same void against creditors.
19. Certain transfer of effects of partners void.
20. Special partners liable as general partners, when.
21. When not to claim as creditors.
22. No dissolution by acts of partners without notice; same to be filed, &c., in Clerk of Court's office, &c.
23. Clerk's fees.
24. Names of firm to be kept posted up. Forfeiture for default.
25. Penalty for posting up incorrect sign.
26. Not applicable to special partners, &c.
27. No part of capital stock to be withdrawn by partners. Interest allowed in certain cases.
28. Against whom creditors may bring suit.

May be formed by whom and for what purposes.
1737, VI, 578, § 1; 587, § 27; 1846, XI, 365; 1866, XIII, 131.

SECTION 1. That limited partnerships, for the transaction of any mercantile, mechanical or manufacturing business, or for the transportation of passengers, products of the soil, or merchandise, within this State, may be formed by two or more persons, upon the terms, with the rights

and powers, and subject to the conditions and liabilities herein prescribed; but these provisions shall not be construed to authorize any such partnership for the purpose of banking or making insurance.

General and special partners and their liabilities.
Ib, 579, § 2.

SEC. 2. Such partnerships may consist of one or more persons, who shall be called general partners, (who shall be jointly and severally responsible, as general partners now are by law,) and of one or more persons who shall contribute, in actual cash payments, a specific sum as capital to the common stock, who shall be called special partner or partners, and who shall not be liable for the debts of the partnership beyond the funds so contributed by him or them, to the capital.

Powers of general partners.
Ib., § 3.

SEC. 3. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same.

Partners to sign certificate.
Ib, § 4.

SEC. 4. The persons desirous of forming such partnership, shall make, and severally sign, in the presence of two subscribing witnesses, a certificate, which shall contain—

Contents

First. The name or firm under which such partnership is to be conducted;

Second. The general nature of the business intended to be transacted:

Third. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence;

Fourth. The amount of capital which each special partner shall have contributed to the common stock;

Fifth. The period at which the partnership is to commence, and the period at which it will terminate.

Same to be proved.
Ib., § 5.

SEC. 5. The certificate shall be proved in the same manner that deeds of conveyances for lands are required by law to be proved.

To be filed and recorded in County Clerk's office.
Ib., § 6.

SEC. 6. The certificate so proved, with the probate, shall be filed in the office of the Clerk of the Court of that County in which the principal place of business of the partnership shall be situated, and shall also be recorded by him, at large, in a book so kept for that purpose, open to public inspection. If the partnership shall have places of business situated in different Counties, a transcript of the certificate and of the probate thereof, duly certified by the Clerk in whose office it shall be filed, under his official seal, shall be filed and recorded in like manner, in the office of the Clerk of the Court in every such County.

Affidavit of sums contributed to be filed.
Ib., 7.

SEC. 7. At the time of the filing the original certificate, with the evidence of the execution thereof, as before directed, an affidavit of one or more of the general partners shall also be filed in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners, to the common stock, have been actually, and in good faith, paid in cash.

When partnership is deemed formed.
Ib., § 8.

Consequence of false certificate, &c

SEC. 8. No such partnership shall be deemed to have been formed, until a certificate shall have been made, proved, filed and recorded, nor until an affidavit shall have been filed, as above directed; and if any false statement be made in such certificate or affidavit, all the persons interested in such partnership shall be liable for all the engagements thereof, as general partners.

Publication of terms to be made, &c
Ib., § 9; 1850, XII, 583, § 3.

Partnership general if not made.

SEC. 9. The partners shall publish the terms of the partnership, when registered, for at least once a week for six weeks, immediately after such registry, in any one of the newspapers in the County in which the business of such partnership is carried on, and if no newspaper be published in said County, then the notice thereof shall be published as aforesaid in any one of the newspapers of any adjoining County in which newspapers or a newspaper may be published, and be posted up on the door of the court house of the County in which the said firm may be located. If such publication be not made, nor such notice given, for the time prescribed, the partnership shall be deemed general.

Proof of publication.
1837, VI, 579, § 10.

SEC. 10. Affidavits of the publication of such notice, by the printers of the newspapers in which the same shall be published, may be filed with the Clerk, in whose office the original certificate shall have been recorded, and shall be evidence of the facts therein stated.

Renewals of partnership
Ib., 580, § 11.

SEC. 11. Every renewal or continuance of such partnership, beyond the time originally fixed for its duration, shall be certified, proved and recorded, and an affidavit of a general partner be made and filed, and notice be given, in the manner herein required for its original formation; and every such partnership which shall be otherwise renewed or continued, shall be deemed a general partnership.

Dissolved by alterations, and deemed general partnership.
Ib., § 12.

SEC. 12. Every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership; and every such partnership, which shall in any manner be carried on after such alteration shall have been made, shall be deemed a general partnership, unless renewed as a limited partnership, according to the provisions of the preceding Section.

Firm name, &c.
Ib., § 13

SEC. 13. The business of the partnership shall be conducted under a firm, in which the name or names of the general partner or partners only shall be inserted, without the addition of the word "Company," or any other general term; and if the name of any special partner shall be used in such firm with his privity, he shall be deemed a general partner.

Suits, in whose names.
Ib., § 14.

SEC. 14. Suits in relation to the business of the partnership shall be brought and conducted by and against the general partners, in the same manner as if there were no special partners.

Rights of special partners. Ib., § 15.

SEC. 15. A special partner may, from time to time, examine into the state and progress of the partnership concerns, and may advise as to their management: but if he shall take any active part in transacting the business of the partnership, except as attorney, counsel or solicitor, he shall be liable as a general partner.

General partners to account. Ib., § 16.

SEC. 16. The general partners shall be liable to account to each other, and to the special partners, for the management of their concern, both in law and equity, as other partners now are by law.

Punishment for fraud. Ib., § 17.

SEC. 17. Every partner who shall be guilty of any fraud in the affairs of the partnership, shall be liable, civilly, to the party injured, to the extent of his damages; and shall also be liable to an indictment for a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the Court by which he shall be tried.

Certain transfers, judgments, &c., void. Ib., § 18.

SEC. 18. Every sale, assignment, or transfer of any of the property or effects of such partnership, made by such partnership when insolvent, or in contemplation of insolvency, or after, or in contemplation of the insolvency of any partner, with the intent of giving a preference to any creditor of such partnership or insolvent partner, over other creditors of such partnership; and every judgment confessed, lien created, or security given by such partnership, under the like circumstances and with the like intent, shall be void as against the creditors of such partnership.

Certain transfers of effects of partners void. Ib., § 19.

SEC. 19. Every such sale, assignment or transfer of any of the property or effects of a general or special partner, made by such general or special partner when insolvent, or in contemplation of insolvency, or after, or in contemplation of the insolvency of the partnership, with the intent of giving to any creditor of his own, or of the partnership, a preference over the creditors of the partnership; and every judgment confessed, lien created, or security given, by any such partner, under the like circumstances and with the like intent, shall be void as against the creditors of the partnership.

Special liable as general partners, when. Ib., § 20.

SEC. 20. Every special partner, who shall violate any provision of the last two preceding Sections, or who shall concur in or consent to any such violation by the partnership, or by any individual partner, shall be liable as a general partner.

When not to claim as creditor. Ib., 581, § 21.

SEC. 21. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be allowed to claim, as a creditor, until the claims of all the other creditors of the partnership shall be satisfied.

No dissolution until notice filed in Clerk's office. Ib., § 22.

SEC. 22. No dissolution of such partnership, by the acts of the parties, shall take place previous to the time specified in the certificate of its formation, or in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the Clerk's office in which the original certificate was recorded, and published for three months in

two or more newspapers most contiguous to the place or places where such partnership exists, and be posted on the door of the court house of the County in which the partnership may be located.

Clerk's fees. Ib., § 23.

SEC. 23. The Clerk of the Court shall receive for his services the same compensation now allowed by law to the Register of Mesne Conveyances for similar services.

Names of firm to be kept posted up. Ib., § 24.

SEC. 24. Every mercantile partnership in this State, in addition to a proper or conspicuous signboard or plate, containing the name and style of the firm, shall post up and keep posted up, in some conspicuous place, at the business stand and stands of the firm, the given and surname of each member of the firm, under pain, in case of default, of being sued and proceeded against, without naming the individual members of the firm, and also of forfeiting and paying, individually and each, the sum of fifty dollars to any one who shall sue for the same, for each and every month they shall make such default as aforesaid.

Forfeiture for default.

Penalty for posting up incorrect sign. Ib.

SEC. 25. Any person or persons who shall post up a plate or signboard, representing himself or themselves as being united with another or others in partnership, under the addition of the word "Company" or "Co.," or shall otherwise make such representation, when in fact such other or others are not united with him or them in partnership as aforesaid, he and they shall each be subject to forfeit and pay, as aforesaid, the monthly penalty prescribed in Section twenty-four of this Chapter.

Not to apply to whom. Ib.

SEC. 26. That nothing contained in the last two Sections shall apply to the special partners of a limited partnership.

No part of capital stock to be withdrawn. Ib., § 25.

SEC. 27. No part of the sum which any special partner shall have contributed to the capital stock, shall be withdrawn by him, or paid, loaned or transferred to him as profits, dividends, or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest shall not reduce the original amount of the capital after payment of all the debts of the partnership; and if, after the payment of such debts and interest, any profits shall remain, he may receive his portion thereof.

Interest allowed.

Against whom creditors may bring suit. Ib., § 26.

SEC. 28. Any creditor of a limited partnership may, at his option, include in his suit against the same, the special partner or partners who may become liable as general partners, by failing to comply with the provisions of this Chapter; and all the facts necessary to affirm or negative the liability of such special partner or partners, may be given in evidence under the general issue; and the failure of the plaintiff to establish such liability, shall not be cause of non-suit.

CHAPTER LVIII.

Of the Inspection of Timber and Lumber.

SEC.
1. Rules for measuring. Penalty for violation.
2. None to be sold except by board measurement.
3. City Council of Charleston to elect Inspectors annually. Bond. Oath.
4. Inspectors to measure timber as herein directed; sale of timber in bulk.
5. Inspectors' fees.
6. Penalty for acting as Inspector without giving bond.
7. Penalty for Inspectors measuring by "side and edge measurement."

SECTION 1. That all ranging timber bought or sold in the markets of this State shall be by board or superficial measurement; and any person or persons who shall buy or sell ranging timber in or for the markets of Charleston or Georgetown, or any other public market in this State, by the rule known as "side and edge measurement," that is to say, by adding the side to the edge, multiplying by the length, and dividing by twelve, (side + edge × length ÷ twelve,) shall be fined for every such act of buying or selling not less than one hundred dollars, and not more than three hundred dollars.

Rules for measuring. 1855, XII, 434, § 1.

Penalty for violation.

SEC. 2. No timber shall be sold or purchased in the city of Charleston by any mode of measurement except that denominated board or superficial measurement, (unless by special contract between the parties,) which shall alone be done by the Inspectors or Surveyors of Timber in the city of Charleston.

None to be sold except by board measurement. 1853, XII, 294, § 1.

SEC. 3. The City Council of Charleston shall elect, annually, one or more Inspectors and Surveyors of Timber, who, before entering upon the duties of his or their office, shall severally execute a bond to the said City Council, in the penalty of two thousand dollars, with good sureties, for the faithful performance of the duties of his or their office; and shall also take and subscribe the following oath, to wit: "I, A. B., do solemnly swear (or affirm, as the case may be,) that I will faithfully perform all the duties of Inspector and Surveyor of Timber, in the city of Charleston, as prescribed by the Act of the General Assembly providing for the same: So help me God." And said bond shall be recorded in the office of the Secretary of State, and shall be liable to suits at the instance of the State of South Carolina, or of individuals suffering loss by the violation of the provisions of this Chapter.

City Council of Charleston to elect Inspectors annually; bond; oath. Ib., § 2.

SEC. 4. It shall be the duty of the said Surveyors and Inspectors to measure all timber in the manner aforesaid, brought for sale to the city of Charleston, at the request of any person owning or buying the same, and shall give a certificate to such person, specifying the quality, and kind, and quantity of such timber, and the number of pieces in each raft; which certificate shall be evidence of the matters stated therein, as between the owner and purchaser thereof. But nothing herein contained shall prevent any person or persons from buying or selling timber in bulk without measurement.

Inspectors to measure timber as herein directed. Ib., § 3; 1856, XII, 580.

Sale of timber in bulk.

Inspector's fees.
Ib.

SEC. 5. The said Inspector and Surveyors shall be entitled to demand and receive from the owners of timber eight cents per thousand for every thousand feet of timber measured.

Penalty for acting as Inspector without a bond.
1855, XII, 434, § 2.

SEC. 6. Any person or persons who shall exercise the office of Inspector, Surveyor or Measurer of ranging timber, for the market of the city of Charleston, without having first given bond, and duly qualified under the provisions of Section three of this Chapter, shall be fined, for every such offence, not less than two hundred and not more than five hundred dollars.

Penalty for measuring by side and edge measurement
Ib., 435, § 3.

SEC. 7. That any person or persons exercising the office of Inspector, Surveyor or Measurer of ranging timber, for any market in this State, who shall measure timber by the rule known as "side and edge measurement," described in the first Section of this Chapter, shall be fined, for every such offence, not less than two hundred, and not more than five hundred dollars.

CHAPTER LIX.

OF NEAT CATTLE.

SEC.
1. Butcher to file with clerk of market number, marks, &c.
2. Penalty for neglect.
3. Clerk's fees.

Butchers to file with Clerk of Market number, marks, &c.
1795, V, 279, § 1; 1857, XII, 618, § 1.

SECTION 1. That all butchers, and others purchasing cattle for sale in the city of Charleston, are required, within forty-eight hours after each purchase of neat cattle shall have been made, to file with the Clerk of the Market, in said city, the number of cattle purchased, the marks and brands appearing upon the same, and the names of the persons from whom said cattle have been purchased.

Penalty for neglect.
Ib.

SEC. 2. In every case of neglect, or refusal, to comply with the above requisition, the party offending shall be liable to a penalty of twenty-five dollars, to be recovered by indictment.

Clerk's fees.
Ib.

SEC. 3. The said Clerk, for receiving and filing each return, shall receive, as compensation from the person making such return, five cents.

CHAPTER LX.

Of Common Carriers.

SEC.
1. Common carriers to publish names and residences of parties interested in business.
2. When to be published; penalty for failure.
3. Common law liability not limited by public notice, &c.

SECTION 1. That when any association of individuals, not having a charter from this State, shall undertake to carry, for hire, by railroad, in whole or in part, the said individuals are required to publish, in three newspapers of this State, a correct list, to be sworn to before one of the Clerks of Common Pleas and General Sessions in this State, of the names and residences of the parties interested in the business of carrying.

Common carriers to publish names, &c., of parties interested in business.
1863, XIII, 216, §4

SEC. 2. The said list shall appear at least once in two months during the time they are engaged in said business; and all persons thus engaged in the business of common carriers, failing to make such publication, shall be deemed guilty of a misdemeanor, and liable to indictment.

When to be published; penalty for failure.
Ib.

SEC. 3. No public notice or declaration shall limit or in anywise affect the liability at common law of any public common carriers for or in respect of any goods to be carried and conveyed by them, but they shall be liable, as at common law, to answer for the loss of or injury to any articles and goods delivered to them for transportation, any public notice or declaration by them made and given contrary thereto or in anywise limiting such liability notwithstanding.

Common law liability not limited by public notice, &c.
1864, XIII, 262, § 2.

TITLE XIII.

OF CORPORATIONS.

CHAPTER LXI. *Of Banks and Banking.*
LXII. *Of Insurance Companies.*
LXIII. *Of Corporations Organized under Charters.*
LXIV. *Of Corporations Organized under General Statutes.*
LXV. *Of Railroad Corporations.*
LXVI. *Of Draining Corporations.*
LXVII. *Of Certain Powers and Liabilities of Corporations.*

CHAPTER LXI.

OF BANKS AND BANKING.

SEC.
1. Banks may make loans and open accounts with other States.
2. May invest in State or U. S. stocks.
3. Penalty if circulating notes exceed three times amount of gold, &c.
4. To report weekly to Comptroller General.
5. Penalty for failure to report.
6. Agent of foreign bank not to circulate foreign notes other than of his own bank.
7. Banks not to pay mutilated notes unless security given.
8. Definition of "bank note," and "bank of issue."
9. Parts of bank charters repugnant to Sections 1 and 2 repealed; proviso.

Loans and accounts with foreign States. 1847, VIII, 36, § 1.

SECTION 1. That the President, Directors and Company of any incorporated bank in this State are authorized to make loans on negotiable paper, for any period not exceeding twelve months; and also to open an account and give a credit to any other bank or banks in any of the sister States.

Investments in stocks. Ib, § 2

SEC. 2. Such corporations shall have power to vest, from time to time, such part of their capital, not exceeding, (with the amount of stock any such bank may hold,) one-half of the amount originally subscribed to such bank, in the stock of this State, or of the United States.

Amount of notes limited. 1855, XII, 699, § 6.

SEC. 3. If the bank notes issued by any bank, and in circulation, shall at any time exceed, for more than four successive weeks, three times the amount of gold and silver coin and bullion in possession of the bank, or subject to its control, within the limits of this State, as its own property, such bank shall forfeit five hundred dollars for each and every successive week during which such excess shall continue, to be recovered by action at the suit of the State.

Penalty.

Weekly reports to Comptroller General. Ib.

SEC. 4. In order that such excess, when it exists, may be apparent, it shall be the duty of the President or Cashier of every bank of issue, on Wednesday of every week, to transmit to the Comptroller General an account of the amount of bank notes of such bank in circulation; and also an account of the amount of gold and silver coin and bullion in the

possession of the bank, or subject to its control, as its own property, on the next preceding Tuesday, which account shall be certified by the oath of the President or Cashier, taken before and certified by any officer duly authorized to administer oaths; and any person swearing falsely to any account shall be deemed guilty of perjury, and shall be subject to the pains and penalties thereof.

Penalty for failure.
Ib.

SEC. 5. Any bank, the officers whereof shall neglect to transmit to the Comptroller General any such account aforesaid, shall forfeit one hundred dollars for each and every day during which the same shall be neglected, to be recovered by action at the suit of the State.

Agents of foreign banks not to circulate certain notes.
Ib., § 5.

SEC. 6. It shall not be lawful for any agent within this State of any bank not having corporate existence within the State, to pay out of his said agency, and in the business thereof, or put into circulation, in the transaction of the business of the same, any bank note other than bank notes the issue of the bank of which he is agent, or of the banks having corporate existence within this State; and any such agent so paying out or putting into circulation any such forbidden bank notes or note, shall forfeit treble the amount of the bank note or notes so paid out or put into circulation, to be recovered by action at the suit of the State, of which recovery the informer shall be entitled to one-half.

Redemption of mutilated notes.
1822, VI, 181, § 1. 2 N. and McC., 451.

SEC. 7. That no bank now or hereafter to be incorporated in this State, shall be compelled by law to pay any of their bills which have been or may be hereafter cut in half or divided, unless both halves of said bill or bills is presented, or unless the person producing one-half, and demanding payment as of the whole, shall first give bond and sufficient security to the said bank, as an indemnity against any loss or damage that may be sustained by the said bank, by paying the whole of said half bills to said person.

Definition of "bank note" and "bank of issue."
1857, XII, 632, § 6.

SEC. 8. For the purposes of this Chapter, the words "bank note" shall be understood to include all bills, notes, checks, and other obligations, of any bank, made payable to bearer on demand, or in any form of words whatsoever written, printed or engraved, so as to be circulated and used as paper money or currency; and the words "bank of issue" shall be understood to include every bank having lawful authority to issue its own bank notes.

Repugnant charters repealed.
1857, VIII, 36, § 2.

SEC. 9. All parts of the Acts of incorporation granted to banking corporations, repugnant to the provisions of Sections one and two of this Chapter are repealed: *Provided*, That nothing contained herein shall be construed so as to prevent the Legislature of this State from prohibiting the purchase of stock, as provided for by Section two of this Chapter, whenever it may be deemed expedient.

CHAPTER LXII.

Of Insurance Companies.

SEC.
1. Insurance Companies to deposit bonds with Comptroller General.
2. Entitled to certificate of deposit for use as evidence in actions.
3. Agent of foreign companies to deposit bonds and certificate of appointment as attorney with Comptroller General.
4. Entitled to certificate; certificate to be filed with County Clerk, and be authority to commence business.
5. Comptroller General to safely keep and return bonds.
6. Agents must have annual license; fee so.
7. Proceedings to obtain licenses.
8. Agents to publish license; also annual statements of their company.
9. Comptroller General to refuse license to agents of insolvent companies.
10. Penalty for violations of Sections 1 and 3.
11. Penalty for violation of license provisions.

To deposit bonds with Comptroller General
1869, XIV, 304, § 1.

SECTION 1. No company or association which is now organized, or which may be hereafter organized in this State, to carry on the business of insurance of any kind or kinds, shall proceed further with business or to business (as the case may be) until they have deposited with the Comptroller General of this State bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each life insurance company or association, and twenty thousand dollars par value for each other insurance company or association. The Comptroller General shall hold such bonds or stocks as security for policy holders in said company or association; but, so long as any company or association so depositing shall continue solvent, the Comptroller General may permit such company to collect and receive the interest on such bonds or stocks so deposited.

Certificate of deposit may be used as evidence.
Ib., § 2.

SEC. 2. Whenever any company or association is, or shall become, fully organized, and the said company or association have deposited with the Comptroller General the requisite amount of State bonds or stocks, it shall become his duty to furnish the corporation or association with a certificate of such deposit, which certificate, or duplicate thereof, certified by the Comptroller General, may be used in and be evidence for and against the corporation in all suits.

Agent of foreign corporations to deposit bonds and certificate of appointment as attorney.
Ib., § 3.

SEC. 3. It shall not be lawful for any person or persons, corporation or corporations, association or associations, to act within this State as agent, or otherwise, in receiving or procuring applications for insurance of any kind or kinds, or in any manner to solicit any one to insure, or in any manner to aid in transacting the business of insurance of any kind or kinds for any company or association incorporated by, or organized under the laws of this or any other State Government, or any foreign government, until such company or association have deposited with the Comptroller General of this State, for the benefit of the policy holders of such company or association, citizens or residents of the United States, bonds or stocks of this State equal to the sum of fifty thousand dollars par value for each life insurance company or association, and twenty thousand dollars par value for each other insurance company or association, (but so long as any company or association so depositing shall continue sol-

vent, the Comptroller General may permit such company or association to collect and receive the interest on such bonds or stocks so deposited, and have appointed an attorney in this State on whom process of law can be served; and said attorney shall have filed with the Comptroller General a certified copy of the charter of said company or association, and also a certified copy of the vote or resolutions of the Trustees or Directors of such company or association appointing him the attorney of such company, which appointment shall continue until another attorney be substituted, which shall be done upon the death, removal, or incapacity to act of such attorney, or may be done by such company or association at any time.

To file Comptroller's certificate with County Clerk. Ib.

SEC. 4. When the foregoing requirements, and such other requirements as may hereafter be required by law, shall have been complied with, the Comptroller General shall give a certificate to that effect, and also state the name of the attorney, which certificate, when filed in the County Clerk's office of the County where the agency is to be located, shall be the authority to commence business.

Comptroller General to return identical bonds. Ib., § 5

SEC. 5. The Comptroller General shall safely and separately keep the bonds or stocks of each company or association, and shall return the identical bonds or stocks received; and, during the usual office hours, shall keep the bonds or stocks subject to examination of the representative of any company or association having made a deposit, as required by this Chapter; and the State shall be responsible for the return of all of said bonds or stocks by the Comptroller General.

Agents to procure license annually; fee $5 Ib, 204, § 1.

SEC. 6. That it shall not be lawful for any agent of any insurance company in the United States, or any foreign State, not incorporated by the laws of this State, to take risks or transact any business of insurance in this State, without first obtaining a license from the Comptroller General, which license shall expire on the thirty-first day of March of each year; and, for every such license, the company or agent taking out the same shall pay, or cause to be paid, into the Treasury of the State, the sum of five dollars, the same to be appropriated for the use and benefit of the State.

Proceedings to obtain licenses. 1866, XIV, 205, § 2.

SEC. 7. That, before the Comptroller General shall issue such license to any agent of any insurance company not incorporated in South Carolina, there shall be filed in his office, by such agent, a certified copy of the charter of the company from which the said agent or attorney has received his appointment, and also a certified copy of the vote or resolution of the Trustees or Directors of said company appointing him such agent, accompanied by a warrant of appointment, under the official seal of the company, and signed by the President and Secretary. Such warrant of appointment shall continue valid and irrevocable until another agent or attorney has been substituted, so that, at all times, while any liability remains outstanding, there shall be within the State an agent or attorney as aforesaid; and shall contain a consent expressed, authorizing

process of law to be served on said agent or attorney for all liabilities of every nature incurred in this State by said company, and that such service, made on such agent or attorney in the manner required by the laws of this State, shall be deemed legal and binding on the company or companies in all cases whatsoever, and that every judgment so recovered shall be conclusive evidence of the indebtedness of the company; and, in addition to said warrant of appointment, there shall be filed and published a statement, made under oath of its President or Secretary, showing its assets and liabilities, and distinctly showing the amount of capital stock, and how the same has been paid, and of what the assets of the company consist, the amount of losses due and unpaid, and all other claims against the company, or other indebtedness, whether due or not due at the time of the filing of the statement above, and shall further show:

1st. That said companies have fulfilled the provisions of their respective charters, and of the extensions and amendments thereto, in every particular, and whether there has been any change of charters since last statement.

2d. The amount of policies outstanding, as near as can be ascertained.

3d. The character of the risks, and the rule governing companies and their agents in taking the same, both as to locality and amount.

4th. The particular character of the assets, specifying the amount of cash and public, bank, manufacturing or other stocks and bonds, or other securities, held by the companies, with the evidence that they are held by them, the rule of investment in real estate securities, and the general localities of real estate secured to companies.

5th. The amount received from premiums, and whether sufficient to pay losses, &c.

6th. Whether there have been any changes in agencies during the preceding year.

To publish license and company's annual statement
Ib., § 8.

SEC. 8. That every agent or attorney obtaining such license shall also cause such license to be published in some newspaper, to be designated by the Comptroller General, having circulation in the County in which he resides. The company shall also furnish to the Comptroller General, through their agent, an annual statement of the affairs of the company, as provided in the preceding Section, and it shall be the duty of the agent or agents to publish the same.

Insolvent companies.
Ib., 206, § 4.

SEC. 9. That if the Comptroller General shall become satisfied that any company is insolvent or unsafe, it shall be his duty to refuse license to its agent or agents, and to withdraw any license that has been already issued.

Penalty for violations of 1 and 3
Ib., 206, § 4.

SEC. 10. Every violation of Sections 1 and 3 of this Chapter shall subject the company or association, or agent or agents, so violating, jointly and severally, to a penalty of five hundred dollars for each violation, which shall be recovered by indictment, one-half of such

penalty, when recovered, to be paid into the County Treasury of the County, and the other half to the informer of such violation; and, in case of the non-payment of such penalty, the person or persons so offending shall be liable to imprisonment for a period not exceeding one year, in the discretion of the Court having cognizance thereof.

Penalty for violation of license provisions. Ib., § 5.

SEC. 11. That any person who shall deliver any policy of insurance, or collect any premium of insurance, or transact any business of insurance in this State, for any company in the United States, or foreign State, not incorporated by the laws of this State, without having first obtained license by law required, or after his license has been withdrawn, or who shall in any way violate the foregoing provisions in relation to licenses of agents of insurance companies, shall be fined, for every such offence, not less than one hundred dollars, nor more than five hundred dollars, at the discretion of the Judge: *Provided*, That nothing contained in this Section shall release any such company or companies upon any policy issued or delivered by it or them.

CHAPTER LXIII.

OF CORPORATIONS ORGANIZED UNDER CHARTERS.

SEC.
1. Charters subject to amendment, alteration or repeal.
2. Corporations not to make discrimination on account of race, color or previous condition.

Manufacturing Companies.

3. Subject to provisions of Sections 4 to 19, unless specially exempted.
4. Prerequisites to attachment of Acts of Incorporation.
5. Meeting of subscribers to stock.
6. Proceedings.
7. When such corporations may go into operation.
8. Liability of members before stock is actually paid in.
9. Debts not to exceed paid in stock; Directors liable for excess; how liability may be avoided.
10. Powers of such corporations.
11. Management; choice of Directors and President.
12. Directors to submit statements to stockholders; penalty.
13. Shares to be personal estate.
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15. Liability of executors &c., and estates of deceased stockholders.
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71. Forfeiture of shares; purchaser to be a member of company.
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Charters subject to amendment or repeal.
1841, XI, 168, §41.

SECTION 1. That it shall become part of the charter of every corporation, which shall, at any session of the General Assembly, receive a grant of a charter, or any renewal, amendment or modification thereof, (unless the Act granting such charter, renewal, amendment or modification, shall in express terms except it,) that every charter of incorporation granted, renewed, or modified, as aforesaid, shall at all times remain subject to amendment, alteration or repeal, by the legislative authority.

Common carriers not to discriminate on account of color, &c.
1869, XIV, 179, §§ 1, 3.

SEC. 2. That it shall not be lawful for any party or parties engaged in any business, calling or pursuit, for the carrying on of which a license or charter is required by law, municipal, State, Federal or otherwise, to discriminate between persons on account of race, color or previous condition, who shall make lawful application for the benefit of such business, calling or pursuit; and no Act of incorporation shall be conferred upon any organization, the rules and regulations of which contain features not compatible with the provisions of this Section.

Manufacturing Companies.

Subject to provisions of §§ 4 to 19, unless specially exempted
1847, XI, 159, § 1.

SEC. 3. That all manufacturing companies which shall be incorporated in this State shall have all the powers and privileges, and be subject to all the duties, liabilities and other provisions contained in Sections 4 to 19, inclusive, of this Chapter, unless the said corporations be specially exempted therefrom by their respective charters.

SEC. 4. Books for subscriptions to the stocks of such companies shall be opened by such Commissioners, and in such manner, as their respective charters may appoint. The Commissioners shall proceed in such manner, and discharge such duties as shall be specified, for the purpose of receiving subscriptions, disposing of the first payments made therein, reducing shares subscribed for in case of over-subscription, and taking other measures for the formation of the company. As soon as the requisite number of shares shall be subscribed for, the company shall be considered as formed, the Act of incorporation shall attach and become effectual, and the company shall proceed to complete its organization.

Prerequisites to attachment of Acts of incorporation
Ib., § 2.

SEC. 5. To this end the Commissioners shall appoint a convenient time and place for the meeting of the subscribers, and give to them at least a fortnight's notice, either by writing or by public advertisement in some gazette in the County where such corporation is to be located.

Meeting of subscribers to stock
Ib.

SEC. 6. At this meeting the stockholders may proceed to elect such President, Directors and officers as they may deem necessary for conducting the affairs of the Company; and such Directors, or their successors, shall have power to dispose of any remainder of stock which may not have been subscribed for.

Proceedings
Ib.

SEC. 7. The said corporations shall not go into operation until one-half of the capital stock required by their respective charters shall be paid in lawful money of the United States, and an oath or affirmation to that effect shall have been made by the President, Treasurer, and a majority of the Board of Directors, which shall be recorded in the Secretary of State's office, and published in at least two respectable newspapers in the State, one as near the establishment as circumstances will admit, the other in the city of Charleston; the oath or affirmation required as above shall be repeated after the payment of each installment, until the whole capital shall have been paid in.

When may go into operation.
Ib., 460, § 3.

SEC. 8. The members of such corporation shall be liable jointly and severally for all debts and contracts made by such corporation, until the whole amount of capital stock shall have been actually paid in, and no note, bond or obligation given by any stockholder, whether secured by a pledge of the stock in such corporation, or in any other manner, shall be considered as payment of any part of the capital stock.

Liability of members before stock paid in.
Ib., 4.

SEC. 9. The total amount of debts which such corporations shall at any time owe shall not exceed the amount of its capital stock actually paid in, and, in case of excess, the Directors in whose administration it shall happen, shall be jointly and severally liable for the same in their natural capacities, as well to the contractors of the other part as to the corporation; such of the Directors as may have been absent when the said excess was contracted or created, or who may have voted against such contract or agreement, and caused his vote to be recorded in the minutes of the Board, may respectively prevent such liability from attaching to themselves by forthwith giving notice of the fact to a general meeting of the stockholders, which they are authorized to call for that purpose.

Debts not to exceed paid-in stock; liability of Directors.
Ib., § 5.

Powers of such corporations.
Ib., § 7.

SEC. 10. Such corporations shall have power to purchase and hold such real estate as may be required for their purposes, or such as they may be obliged or may deem for their interest to take in the settlement of any debts due them, and they may dispose of the same; to sue and be sued in all Courts; to have and use a common seal; to elect, in such manner as they may determine to be proper, all necessary officers, and fix their duties; to make by-laws and regulations, consistent with the Constitution and laws of this State, for their own government and the due and orderly conduct of their affairs, and the management of their property.

Management, choice of President and Directors.
Ib., Ibi., § 8.

SEC. 11. The business of every such corporation shall be managed and conducted by the President and Directors thereof, and such other officers, agents and factors as each company may think proper to authorize. The Directors shall be chosen, annually, at such time and place as shall be provided by the by-laws of the company, and shall hold their offices for one year and until others are chosen in their stead; and one of the Directors shall be chosen President, either by the company or by the Directors, as the by-laws may appoint.

Directors to submit statements to stockholders; penalty.
Ib., § 9.

SEC. 12. The Directors shall submit to the stockholders, annually, a written statement under oath or affirmation of the Treasurer and President of the corporation, setting forth the amount of capital stock paid in and general assets of the company, and, also, the amount of existing debts, which statement shall be published in a newspaper, if there be one in the County where such corporation is located, and in a newspaper in the city of Charleston; and if any Board of Directors shall fail to do so, the said Directors shall be personally liable, jointly and severally, for all debts of the company then existing, and for all that shall be contracted before such notice is given.

Shares, personal estate.
Ib., § 10.

SEC. 13. The shares in the capital stock of such corporation shall be deemed personal estate; and the mode of issuing the evidence of stock, and the manner, terms and conditions of assigning and transferring shares, be prescribed by the by-laws of each corporation.

Loan and division of capital; liability of Directors.
Ib., § 11.

SEC. 14. No part of the capital stock of such companies shall at any time, or upon any pretence whatever, be loaned to the stockholders; neither shall the capital be withdrawn or divided among the stockholders until all the liabilities of the company are lawfully paid, and no dividends shall be declared except from the net earnings of the company. The Directors consenting to such withdrawal or division of the capital before the debts are paid, or to dividends out of the capital stock, shall be liable, jointly and severally, personally, for the debts of the company, to an amount equal to the portion of capital which has been withdrawn or divided, or the dividend declared out of the capital stock.

SEC. 15. Persons holding stock in such companies as executors, administrators, or holding by way of collateral security, shall not be personally subject to the liabilities of the stockholders under the foregoing provisions; but the person pledging such stock shall be liable as a stockholder, and the estates and funds in the hands of such executors or administrators shall be liable in their hands, in like manner, and to the same extent, as the deceased testator or intestate, or the ward or person interested in such trust fund would have been if they had, respectively, been living and competent to act and hold the stock in their own names.

Liability of executors, &c., and estates of deceased stockholders.
Ib., § 12.

SEC. 16. At all meetings of the company, and at the election of officers, each stockholder shall have one vote for each share he may own or represent, and executors, administrators, guardians and trustees shall represent the shares in their hands, and a person pledging his stock shall, nevertheless, vote as a stockholder.

Votes of stockholders.
Ib., § 12, 13.

SEC. 17. Where no other time is specified, all charters of such companies shall be for the term of fourteen years.

Limitation of charters.
Ib., § 15.

SEC. 18. Nothing contained in the foregoing Sections shall be construed to remove such liabilities as, by law, such corporations, their officers and stockholders, are now subject to.

Other liabilities not removed.
Ib., § 16.

SEC. 19. No part of the capital stock or any of the funds of such corporation shall, at any time during the continuance of their charters, be used or employed, directly or indirectly, in banking operations, or for any purpose whatsoever, inconsistent with the foregoing provisions or their respective charters.

Funds not to be used in banking.
Ib., 460, § 6.

Plank Road Companies.

SEC. 20. That it shall not be requisite for plank road companies to make any report to the Legislature of their acts and doings, receipts and expenditures, condition and business of the roads, unless such reports shall be specially called for by the Legislature.

Reports of plank roads.
1852, XII, 190, § 1.

SEC. 21. All companies, for the construction of plank roads, which shall receive charters from the State, shall have all the powers and privileges, and be subject to all the liabilities and other provisions contained in Sections 22 to 46, inclusive, unless the company be specially exempted therefrom by the Legislature.

Powers, privileges and liabilities.
1850, XII, 16, § 11.

SEC. 22. Companies for the construction of plank roads may be formed and receive their charters in the following manner: Whenever it is desired to construct a plank road between any two points in the State, public notice thereof shall be given by advertisement at the Court House of such County in which any part of the said road is intended to be located, and in some gazette in each of the said Counties, if any be published therein, and also in at least one daily gazette in Charleston and Columbia, for the space of one month. The notice shall specify, with

Notice of application for charter.
Ib.

reasonable certainty, the intended route of the road, and the amount of capital which it is proposed to raise for its construction. At the time of making the publication, a copy shall be sent to the Executive Office of this State.

Subscriptions; first payment; report of Commissioners.

Ib; 185, XII, 10, § 1.

SEC. 23. At the expiration of the time of advertisement, books for subscription to the stock shall be opened at such times and places, and by such Commissioners, as shall be designated by the Governor. The Commissioners shall proceed, at the appointed times and places, to open the books for subscriptions to the capital stock of the company, (which shall be sub divided into shares of the value of twenty dollars each,) and shall receive the first payment of one dollar in each share. In case of under subscription, they shall report the fact to the Governor, who may authorize the re opening of the books at such further times and places as he may appoint. In case of over subscription, they shall reduce the subscription rateably, except that no subscription of five shares or under shall, in the first instance, be reduced In all cases, a report of their proceedings shall be transmitted by the Commissioners to the Governor.

Meeting of subscribers; election of President and Directors.

1850, XII, 17, 11.

SEC. 24. As soon as the requisite number of shares shall be subscribed, such of the Commissioners as may be designated shall appoint a convenient time and place for the meeting of the subscribers, and cause it to be advertised for a reasonable time. At that time and place, the subscribers may appear in person or by proxy, and, the meeting having assembled, a proper registry shall be made of the shares represented, and the subscribers shall vote for a President and such number of Directors as they may choose, to serve for one year, and until a new election be made.

Statement.

Ib.

SEC. 25. The President and Directors shall immediately prepare, under their hands and seals, a statement of their election, of the number of shares subscribed for, the amount paid over to them by the Commissioners, and the corporate name which they desire to assume for the company, and shall transmit the statement to the office of the Secretary of State, in Columbia, for registry.

When Act of Incorporation attaches.

Ib.

SEC. 26. Upon receipt of such statement, the Secretary of State shall issue his certificate under the seal of the State, testifying that the law has therein been complied with, and upon the signature of the certificate by the Governor the Company shall be considered as formed, and an Act of Incorporation shall immediately attach.

Powers

Ib.

SEC. 27. Plank Road companies so incorporated shall have perpetual succession of members, and be capable, in their corporate name, to sue and be sued, answer and be answered, appear, defend and prosecute to final judgment, decree and execution in all Courts. They shall have the capacity to have a common seal, to elect, in such manner as they shall determine to be proper, all necessary officers, whose election is not otherwise herein provided for, and fix their compensation

and define their duties and obligations; to make by-laws and regulations consistent with the Constitution and Laws of the State for their own government, and for the due and orderly conducting of their affairs and the management of their property. They may make, purchase, or otherwise take and hold any land necessary for the site on which to locate, run and establish their plank road, and also all private rights of way, water courses, or other easement which may lie on or along the route through which such plank road shall pass, and may conduct their plank roads across and over any public road, river, creek, water course, or waters that may be on the route, but in such manner as shall not obstruct the passage of the public road or navigation of the stream.

Management; vacancies. Ib., 18.

SEC. 28. The immediate direction of the affairs of such companies shall be vested in a President and Directors, to be chosen annually, according to by-laws to be made for such purpose. In case of vacancies, they may be filled by appointment until the next election.

Elections. Ib.

SEC. 29. If the day of annual election pass without an election being effected, the Company shall not be dissolved thereby, but it shall be lawful on some other day to make such election, in such manner as the by-laws of the Company shall determine.

Board. Ib.

SEC. 30. The President and Directors shall be styled the Board of Direction.

Votes. Ib.

SEC. 31. At meetings of the Company, each member shall be entitled to one vote for each share held by him, which he may cast either in person or by proxy, but no one but a stockholder shall be a proxy.

Advances on subscribed stock; sale of stock. Ib., 19.

SEC. 32. The President and Directors shall have power to require from the subscribers and stockholders such advances and installments on their respective shares, as in their opinion the wants of the Company shall require, until the whole of the subscription shall be paid; and if any subscriber or holder of stock in plank road companies, shall neglect to pay the installment required of him, within thirty days after the time specified therefor, by advertisement in two or more public gazettes, the President and Board of Directors, after giving thirty days' notice of their intention, may proceed to sell, at public auction, the shares upon which such installment may be due, and the same shall be transferred to the purchaser.

Surplus of sale; stockholder liable for deficiency. Ib.

SEC. 33. If such shares shall sell for more than the installment due, with interest and charges of sale and notice, the subscriber or stockholder shall be entitled to the surplus. If such share shall not sell for a sum sufficient to pay the instalment with interest and charges of sale and notice, the subscriber or stockholder shall be held liable to the corporation for the deficiency.

Purchaser subject to liabilities of stockholder. Ib.

SEC. 34. A purchaser of stock under such a sale shall be subject to the same rules and regulations as the original subscriber, and no sale by the original subscriber of stock, or his assignees, shall release him from his obligation to the company to pay the whole amount of his subscription.

Each stockholder liable until stock paid in. Ib.

SEC. 35. The members of such corporation shall be liable, jointly and severally, for all debts and contracts made by such corporation, until the whole amount of capital stock shall have been actually paid in; and no note, bond or obligation given by any stockholder, whether secured by a pledge of the stock in such corporation, or in any other manner, shall be considered as payment of any part of the capital stock.

Debts not to exceed stock paid in; Directors liable; liability, how avoided. Ib., 20.

SEC. 36. The total amount of debts which such corporation shall at any time owe shall not exceed the amount of its capital stock actually paid in, and in case of excess, the Directors in whose administration it shall occur shall be jointly and severally liable for the same in their natural capacities, as well to the contractors of the other part as to the corporation; such of the Directors as may have been absent, when the said excess was contracted or created, or who may have voted against such contract or agreement, and caused the vote to be recorded in the minutes of the Board, may respectively prevent such liability from attaching to themselves, by forthwith giving notice of the fact to a general meeting of the stockholders, which they are hereby authorized to call for that purpose.

Loans; dividends. Ib.

SEC. 37. No part of the capital stock of such companies shall, at any time, or upon any pretence whatever, be loaned to the stockholders; neither shall the capital be withdrawn or divided among the stockholders, until all the liabilities of the company are lawfully paid, and no dividends shall be declared, except from the net earnings of the company. The Directors consenting to such withdrawal or division of the capital before the debts are paid, or the dividends out of the capital stock, shall be liable, jointly and severally, personally, for the debts of the company, to an amount equal to the portion of capital which has been withdrawn or divided, or the dividend declared out of the capital stock.

Shares personal estate. Ib.

SEC. 38. The shares in the capital stock of such corporations shall be deemed personal estate, and the mode of issuing the evidence of stock, and the manner of assigning and transferring shares, shall be prescribed by the by-laws of each corporation, subject to the general law of the land respecting the transfer and assignment of personalty of that nature.

Liability of executors, &c., and estates of deceased stockholders. Ib.

SEC. 39. Persons holding stock in such companies as executors, administrators, trustees or guardians, or holding, by way of collateral security, shall not be personally subject to the liabilities of stockholders under Sections 21 to 35, inclusive, of this Chapter; but the person pledging such stock shall be liable as stockholder, and the estates and funds in the hands of such executors or administrators, trustees or guardians, shall be liable in their hands in like manner, and to the same extent, as

the deceased testator or intestate, or the ward or person interested in such trust fund would have been, if they had, respectively, been living and competent to act and hold the stock in their own names.

Road-beds. Ib.

SEC. 40. Roads constructed by such companies shall be constructed so as to make, secure and maintain a smooth and permanent road, the track of which shall be made of plank, timber, or other like material, so that the same shall form a hard and even surface, and so as to permit all carriages and vehicles to pass on and off where such roads are intersected by other roads of any kind.

Time to complete roads, toll and toll gates. Ib.

SEC. 41. Such companies shall have four years to construct and complete such roads. Whenever three consecutive miles of any such road are completed, it shall be lawful for the company to erect turnpikes or toll gates thereon, and to appoint toll gatherers to charge and collect toll. Toll gates shall thereafter be put up at such points as the company may select, and such rates of toll shall be collected as they may arrange, but the rates of toll shall always be put up to public view at all toll gates. The toll gatherers at each and every toll gate may prevent from passing the gate, or detain until the toll be paid, any carriage, wagon, vehicle or animal subject to toll. Any person who shall forcibly or fraudulently pass any toll gate erected on such road, without having paid the legal toll, or who shall turn out of the road with his carriage, vehicle or animals, to avoid payment of the tolls, and again enter on the road, shall, for each offence, forfeit to the company a sum not exceeding twenty dollars, to be recovered before any neighboring Trial Justice. Any person who shall willfully or maliciously break or throw down any gate on such road, or shall willfully and maliciously destroy or injure any portion of said roads, shall be liable to indictment as for a misdemeanor, and, upon conviction, shall be fined and imprisoned at the discretion of the presiding Judge.

Report s; books. 1852, XII, 190.

SEC. 42. The Board of Direction shall, when specially required by the Legislature, make report to the Legislature, under oath, of their acts and doings, receipts and expenditures, and condition and business of the road. Their books shall, at all times, be open to the inspection of any Committee of the Legislature, appointed for that purpose. Any such corporation refusing or neglecting to make such return, shall forfeit, for every neglect or refusal, a sum not exceeding two thousand dollars.

Not subject to § 47 to 72 1850, XII, 21, § 11.

SEC. 43. Said plank road companies shall not be subject to any of the provisions or enactments contained in Sections 47 to 72, inclusive.

Fees of Secretary. Ib.

SEC. 44. For all services required under Sections 21 to 43, the Secretary of State shall be entitled to receive from every such company the sum of five dollars, and no more.

Charter to last fourteen years. Ib.

SEC. 45. All such charters shall be taken and held for the term of fourteen years.

May run roads on highways
Ib.

SEC. 46. It shall be lawful for such companies to conduct their roads along or upon any highway or public road, on such terms and conditions as may be agreed upon between such companies and any Board of County Commissioners

Turnpike, Bridge, Causeway and Ferry Companies.

Subject to following provisions unless specially excepted.
1827, VI 302, § 1.

SEC. 47. That whenever the Legislature shall authorize the formation of a company for the construction of a turnpike road, bridge, causeway, or the keeping of any ferry, the company, in its formation, organization and subsequent proceedings, shall be subject to all the provisions of Sections 48 to 72, inclusive, of this Chapter; except such as the Act of authorization shall expressly or by necessary implication exclude.

Shares; installments.
Ib., ¶ 1.

SEC. 48. The value of each share in the company shall be one hundred dollars. To this amount alone shall installments on one share be called for, and in sums not exceeding ten dollars on one share, in any one period of sixty days. At the time of subscribing, ten dollars shall be paid on each share subscribed for.

Number of shares; increase.
Ib., ¶ 2.

SEC. 49. Where the Act of authorization does not fix the number of shares in the company, they shall not be less than one hundred, nor more than three hundred. A subscription for the lowest number shall be sufficient for organizing the company, and then the shares may be increased by the company to any number not exceeding three hundred.

Commissioners to receive subscriptions
Ib., ¶ 3.

SEC. 50. The Governor for the time being shall name three or more Commissioners to receive subscriptions for the stock, and appoint the time and place or places of subscribing; the time named shall be the first day of opening the books, and they shall remain open for six successive secular days, from ten in the morning until four o'clock in the afternoon of each day. During this period, the Commissioners shall receive all subscriptions for shares which may be offered, and on which there shall be paid to the said Commissioners the sum of ten dollars for each share. At the closing of the books, the Commissioners, or a majority of them, shall declare the stock filled, if that be the case. If more shares are subscribed than are authorized, the Commissioners shall reduce them to the authorized number, by taking from the highest subscribers until all are reduced to equality, as near as possible. But if perfect equality cannot be obtained, the last reduction, producing inequality, shall be from the lower subscribers. The deposits on reduced shares shall be immediately returned to the subscribers; and the deposits on all shares not reduced, and which form the stock of the Company, shall be immediately paid into some bank of the State of South Carolina, to the credit of the Company.

Closing of subscription books.
Ib., ¶ 4.

SEC. 51. If, at closing the books, all the shares are not subscribed, the Commissioners shall return all the deposits which shall be demanded within one month; and, at the expiration of that month, shall pay the rest into the said bank, to the credit of the Company, in case it shall be

organized, and if not, to be passed to the credit of the subscribers who have paid the same. And thereupon the Commissioners shall deliver the book or books of subscriptions to the Cashier of the said bank in which the deposit is made, who shall receive private subscriptions for shares, with payment of ten dollars on each, until the whole stock required to organize the Company is taken, when the books shall be by him closed: *Provided, nevertheless,* That the books shall in no case be kept open by him after the first day of the next meeting of the Legislature; on which said day, the Act of authorization shall expire, unless all the shares are then subscribed, and the deposits on them are paid into bank. The Cashier shall regard all public subscriptions on which the deposits are paid into bank as private subscriptions.

Proviso.

List of subscriptions and certificate of deposit of first installment to be recorded with Secretary of State.

Ib., ¶ 5.

SEC. 52. Where all the shares of the Company are taken, either by public or private subscriptions, a list of the subscribers, with the number of shares each has subscribed, shall be made out by the Commissioners who received them; or, in the case of private subscriptions, by the Cashier of the bank; and on the back of such list shall be endorsed a certificate by the President of the bank, that the deposit of ten dollars on each share has been paid into the said bank; which said list and certificate thereon shall be delivered by the said President to the Secretary of State.

Patent of Incorporation to be issued by Secretary.

Ib., 304, ¶ 6.

SEC. 53. Upon the receipt of such list and certificate, it shall be the duty of the said Secretary to make out letters patent, declaring the subscribers on the said list a body corporate, by the name and for the purposes mentioned in the Act of authorization; which said letters patent shall be signed by the Governor, countersigned by the said Secretary, and under the seal of the State; and thereupon the subscribers shall thenceforth form a body politic and corporate, in deed and in law, by the said name, and for the said purposes.

Corporate powers.

Ib., ¶ 7.

SEC. 54. Such corporation, so formed and patented, shall have perpetual succession of members, may have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity in this State; and may make all such regulations, rules and by-laws as are necessary for the government of the corporation, or for effecting the object of it, as expressed in the Act of authorization: *Provided,* Such regulations, rules and by-laws shall not be repugnant to the laws or Constitution of this State.

Proviso.

Not to bank, insure or trade.

Ib., ¶ 8.

SEC. 55. Such corporation is expressly prohibited from carrying on any banking operations, from effecting any insurance on lives or property, and from trading either as brokers, factors or merchants.

Power to hold real estate.

Ib., ¶ 9.

SEC. 56. Such corporation shall have power to purchase, have and hold in fee, or for years, any real estate which may be necessary for the accomplishment of the objects expressed in the Act of authorization; but for no other object or purpose: *Provided,* The value thereof shall not ex-

Amount limited.

ceed one-tenth part of its capital stock; and shall have power to sell, convey or exchange the same.

Funds may be invested; how.
Ib., ¶ 10.

SEC. 57. Such corporation is authorized to vest in the stock of this State, or of any incorporated bank thereof, or in stock of the United States, annually, one-fourth part of its profits: *Provided*, The whole amount so invested shall not exceed, at any one time, one half of the costs of all the bridges erected by such company; which sum so invested shall constitute the primary fund for the reconstruction of such bridges. The dividends and interest accruing on such investments shall not be regarded as a part of the profits of the corporation in the estimate to be taken; but the amount annually invested shall be taken from the limited profits of the year in which the investment is made.

Provisions as to officers, &c.
Ib., ¶ 11.

SEC. 58 When all the shares of such corporation are held by less than six individuals, they shall appoint a President, and all the other members shall be regarded as Directors. But if the shares are held by six or more individuals, then, at a general meeting of the stockholders, they shall elect a President, and not less than two nor more than twelve Directors, who shall have power to appoint a Secretary of the company, and all other agents, officers and contractors, which, by the by-laws of the company, may be authorized. The said President and Directors shall be styled the Direction of the corporation, and shall make all contracts and agreements in behalf thereof, and have power to call for all installments, declare all dividends of profits, and to do and perform all other acts and deeds which by the by-laws of the corporation they may be empowered to do and perform, not inconsistent with the Act of authorization; and the acts of the Direction, authenticated by the signatures of the President and Secretary, shall be binding on the corporation without seal.

Scale by which votes are to be taken.
Ib., ¶ 12.

SEC. 59. In all elections for President, and Directors of the corporation, and on all questions coming before a general meeting of the stockholders, the votes shall be taken according to the following scale, viz: The owner of one or two shares shall be entitled to one vote; the owner of not less than three nor more than four shares shall be entitled to two votes; the owner of not less than five nor more than six shares, shall be entitled to three votes; the owner of not less than seven nor more than eight shares, to four votes; the owner of not less than nine nor more than eleven shares, to five votes; the owner of not less than twelve nor more than fifteen shares, to six votes; the owner of not less than sixteen nor more than twenty shares, to seven votes; the owner of not less than twenty-one nor more than twenty-six shares, to eight votes; the owner of not less than twenty-seven nor more than thirty-three shares, to nine votes; the owner of not less than thirty-four nor more than forty shares, to ten votes; and the owner of every ten shares above forty, shall be entitled therefor to one vote: *Provided*, That no individual shall be entitled to more than twenty votes.

No one entitled to more than twenty votes.

Proxies. Ib., ¶ 13.

SEC. 60. Votes may be given by proxy, but the person so voting must be a stockholder, and, before he votes, may be required by any stockholder to swear that he has no interest, directly or indirectly, in the stock in which he so offers to vote by proxy. A trustee of stock shall not vote on shares held by him in trust, expressed or declared, where the *cestui que trust* holds other shares, either in his own name or in the name of another trustee; but the *cestui que trust* may vote on all shares owned by him, whether legally or equitably, according to the scale aforesaid.

Elections to be annual. Ib., ¶ 14.

SEC. 61. The election of President and Directors shall be made annually, and at least one Director shall be changed at each election, according to a by-law made for that purpose. But if the day of annual election should pass without an election for President and Directors, or any of them, the corporation shall not be thereby dissolved, but it shall be lawful on any other day to hold and make such election, in such manner as may be prescribed by the by-laws of the corporation.

Report by Direction. Ib., ¶ 15.

SEC. 62. The Direction shall once in every year make a full report on the state of the corporation and of its affairs, to a general meeting of the stockholders.

Regulations as to contracts made by Direction. Ib., ¶ 16.

SEC. 63. The Direction shall not exceed in their contracts the amount of the capital of the corporation; and in case they shall do so, the President and Directors who are present at the meeting at which such contract or contracts so exceeding the said capital shall be made, shall be jointly and severally liable therefor, both to the contractor or contractors, and to the corporation: *Provided,* That any one of them may discharge himself from such liability by voting against such contract or contracts, and causing such vote to be recorded in the minutes of the Direction, and giving notice thereof to the next general meeting of the stockholders.

Increase of capital stock. Ib., ¶ 17.

SEC. 64. By an Act of the Legislature, passed on application signed by such majority of the stockholders as are owners of at least two-thirds of the stock, the capital stock of the corporation may be increased, either by increasing the amount of the shares, or by increasing the number thereof by new subscriptions; and by such Act the powers of the corporation may be extended to the construction of new works, connected with the old.

Provisions as to reconstruction of road, &c. Ib., ¶ 18.

SEC. 65. After a road or bridge has been once completed, and the same shall be destroyed in part or in whole, if the funds of the company are not sufficient to reconstruct it, a general meeting of the stockholders may order an installment on each share, beyond the sum of one hundred dollars before limited, which shall be adequate to such reconstruction: *Provided,* Such installment shall not exceed twenty dollars on each share.

Contracts with stockholders. Ib., ¶ 19.

SEC. 66. Where any stockholder of such corporation shall become the contractor for any part of the work at public auction, or with the approbation of the stockholders at a general meeting, and shall give security for the performance thereof, approved by the Direction, he shall receive credit on his installments as called for, for such proportion of the amount of his contract as corresponds with the rate of such installments.

Work of corporation to be finished in four years, &c. Ib., 306, ¶ 20.

SEC. 67. When such corporation is duly chartered as aforesaid, it shall begin the work designated in the Act of authorization, within one year after the date of the charter, and shall complete the same within four years after the said date; and, on failure either to begin or to complete the same within the time limited, the charter shall be *ipso facto* forfeited, and the corporation shall *ipso facto* dissolve.

Subscriptions by State. Ib., ¶ 21.

Number of votes allowed

SEC. 68. In case the Act of authorization shall direct a subscription of stock in behalf of the State, such subscription shall be made by the Comptroller General, as soon as all the other shares are subscribed, and ten dollars on each share are paid into bank. The State shall have a number of votes in the Direction equal to its stock, which may be given by a single person, or by as many persons as there are votes, which person or persons so exercising the power of Directors shall be appointed by the Governor, unless a different mode of appointment shall be prescribed by law. The person or persons acting in the Direction on the part of the State shall represent the State in all the meetings of the stockholders, and be entitled to vote on all questions, except the appointment of President and Directors, and, in voting, shall have the proportionate influence which the stock held by the State entitles it to.

State dividends to be paid into Treasury; accumulation may be applied to purchase of stock from stockholders. Ib., ¶ 22.

SEC. 69. All dividends on shares held by the State shall be paid into the Treasury of the State. After the expiration of twenty-four years from the first receipt of tolls by the corporation, the amount thus accumulated, on the part of the State, may be ordered by the Legislature to be paid over to the individual stockholders, in proportion to the number of their shares; and, thereupon, the bank in which the same shall be deposited shall pass the same to their credit individually; and such deposit shall be a valid payment, the State guaranteeing the solvency of the bank in this respect for one year from the day of transferring such credit; and such payment shall be *ipso facto* a transfer to the State of an amount of stock at a par value, equal to the amount of the said payment; and, thereupon, the dividends on all the stock held by the State shall accumulate as aforesaid: and, after the expiration of ten years, the accumulated amount may be paid by order of the Legislature to the individual stockholders: *Provided*, The same shall amount to the par value of the whole remaining stock held by them, or shall be made so by an appropriation; and, upon such full payment to the individual stockholders of the par value of their whole stock, the same shall vest in the State, and the corporation shall dissolve for every purpose, except for closing its affairs.

State may purchase charters held in fee after thirty-four years from first receipt of toll.

Ib., ¶ 23.

SEC. 70. Where the State shall not take stock in a corporation, or where a charter is granted to an individual or individuals in fee, it shall be lawful for the Legislature, at any time after the expiration of thirty-four years from the time of the first receipt of tolls by the corporation or individual or individuals, to pay into a bank, the solvency of which, in that respect, the State guarantees for twelve months, the par value of the whole stock to the credit of the said individual or individuals, or of such individuals as compose the corporation, in proportion to their respective shares, and such payment shall *ipso facto* be a transfer of the whole stock to the State, and the corporation thereupon shall dissolve, and the charter shall expire for every purpose, except for closing its affairs.

Forfeiture of shares; purchaser to be a member of company.

Ib., 307, ¶ 24.

SEC. 71. A share in such corporation may be forfeited for non-payment of the installment or installments due on it, according to a by-law of the company to be made for that purpose, and the forfeited shares shall be sold for cash, at public auction, after at least one month's public notice; and in case the sum for which it sells shall not amount to the installment or installments for which it is sold, the person who owned the share at the time of forfeiture shall pay the deficiency to the company. If the share shall not sell for any sum, the person who owned it at the time of forfeiture shall continue liable for future installments. The purchaser of the share at public auction shall be a member of the company, and shall be liable for future installments in the same manner as an original subscriber.

Liability of purchaser.

Ib., ¶ 25.

SEC. 72. In case a share shall be sold or transferred before all the installments are paid on it, the person selling or transferring shall be still liable to the company for all installments due or to become due on the share, and the person to whom it shall be sold or transferred shall become a member of the company, and shall be liable for all installments thereafter becoming due.

Charters of bridges, &c., held as real estate.

Ib., § 2, ¶ 1.

SEC. 73. Every charter of a bridge, ferry or turnpike road, shall be in fee simple, and shall be held by the grantee or grantees, his, her or their heirs, or assigns, or successors, forever, as real estate, subject to be extinguished in manner heretofore expressed.

Regulations as to grants to bridges, &c.

Ib., ¶ 2.

SEC. 74. No grant of a bridge, ferry or turnpike road, shall prevent the Legislature from making further grants of ferries, bridges or turnpike roads, within any distance of the same, whenever the convenience of the community may require such further grants. But every grant of a ferry, bridge or turnpike road shall exclude all other persons from erecting and keeping up any bridge, ferry or road, which may reduce the profits of such chartered bridge, ferry or turnpike road, except for the individual use of the person erecting and keeping up such unchartered bridge, ferry or road, without the authority of the Legislature expressed by Act.

Manner of Acquiring Rights of Way.

Notice to be given owner of lands, &c.
1868, XIV, 89, § 1

SEC. 75. That whenever any person or corporation shall be authorized by charter to construct a railway, canal, turnpike, or other public highway in this State, such person or corporation, before entering upon any lands for the purpose of construction, shall give to the owner thereof (if he be *sui juris*) notice in writing that the right of way over said lands is required for such purpose, which notice shall be given at least thirty days before entering upon said lands; and if such notice shall be given, and the owner shall not, within the period of thirty days after service of said notice, signify in writing his refusal or consent, it shall be presumed that such consent is given; and such person or corporation may, thereupon, enter upon said lands: *Provided, however*, That the owner of said lands may be entitled to move for an assessment of compensation in the manner hereinafter directed.

Consent to enter presumed, in case refusal is not signified

If consent not given, how corporation must proceed.
Ib., 90, § 2.

SEC. 76. If the owner of said lands shall signify his refusal of consent to entry upon his lands, without previous compensation, the person or corporation requiring such right of way shall apply, by petition, to the Circuit Judge of the County wherein such lands are situated, for the empannelling of a jury to ascertain the amount which shall be paid as just compensation for the right of way required, in which petition shall be set forth a description of the lands, the names of the owners, the purposes for which the lands are required, and such other facts as may be deemed material. On the hearing of such petition, the Circuit Judge shall order the same to be filed in the office of the Clerk of the Court of Common Pleas for said County, and shall further order the Clerk of the Court to empannel a jury of twelve to ascertain the compensation for the use of the lands required; and it shall be the duty of said Clerk, immediately on receiving such order, to give to the owner of the lands notice thereof in writing, and of the day which shall be assigned. On the day assigned, the said Clerk, in the presence of the parties, if they shall attend, shall select the names of twenty-four disinterested freeholders of the County, and from that number shall draw the names of twelve to act as jurors, and shall cause those so drawn to be forthwith summoned to meet at such place and at such time as he may assign, for the purpose of examining the said lands, and ascertaining the compensation to be made for the right of way over the same; it shall further be the duty of the said Clerk, in person or by his deputy, to attend at the same time and place for the purpose of organizing the jury; and he shall have power to summon from the vicinage other disinterested freeholders to act as jurors in the stead of any of those first summoned who shall fail to attend, or who shall be objected to by either party on the ground of disqualification on account of interest.

Petition to be heard by Circuit Judge and filed with Clerk.

Clerk to organize.

Jury to inspect premises, fix compensation and return verdict
Ib., 3.

SEC. 77. The jury so empannelled, after being first sworn faithfully and impartially to determine the question of compensation submitted to them, shall proceed to inspect the premises, and to take testimony in reference to the construction of the proposed highway, and the quantity of land which shall be required therefor and irrespective of any benefit

which the owner may derive from the proposed highway, and with respect alone to the quantity and value of the land which may be required, and to the special damage which the owner may sustain by reason of the construction of the highway through his lands, they shall ascertain the amount of compensation which shall be made to the owner thereof, and shall render their verdict in writing for the same.

Right of appeal to Circuit Court. Ib., § 4.

SEC. 78. From the verdict so rendered it shall be the right of either party to appeal to the first term of the Circuit Court next ensuing in the County, giving to the opposite party fifteen days' notice of such intended appeal, with the grounds thereof; and, upon the hearing of such appeal, if the Court shall be satisfied of the reasonable sufficiency of the grounds, an issue shall be ordered, in which the appellant shall be the actor, and the question of compensation shall be thereupon submitted to a jury in open Court, whose verdict shall be final and conclusive, unless a new trial shall be ordered by the Supreme Court. But in no case of appeal shall the progress of the work of construction be stayed: *Provided*, The person or corporation requiring the right of way shall deposit with the Clerk of the Court the amount of the verdict from which the appeal is taken.

Amount of verdict to be deposited.

Lands for depots, &c. Ib., 91, § 5.

SEC. 79. Whenever any lands shall be required for the location of depots, stations, turn-outs, section-houses, or other necessary uses of a highway, and from want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner, the same may be taken at an assessed valuation, to be made by a jury in like manner as hereinbefore directed for ascertaining the compensation for right of way.

Notice to be given to trustee, &c., in certain cases. Ib., § 6.

SEC. 80. While the owner, or any one of the several owners, of the lands is a *feme covert*, an infant, or *non compos mentis*, the required notices shall be served upon the trustee, guardian or Committee of such persons; and if there be no trustee, guardian or committee, the Clerk of the Court of Common Pleas shall have power, and he is hereby authorized, to appoint for such person a guardian *ad litem*, upon whom the service shall be made, and who shall represent the interest of such *feme covert*, infant, or person *non compos mentis*. And if the owner, or any of the owners of the lands, shall reside beyond the State, or his or her place of residence be unknown, it shall suffice if notice of the application for a jury, and of the time and place at which they are summoned to attend, be published by the Clerk of the Court for one month next preceding the day assigned, which publication shall be made in a newspaper published in the County, or if there be none there published, then in some newspaper of the State having general circulation in the County.

Published notice sufficient for non-residents.

Rights to vest, for how long; fee to remain in owner. Ib., § 7.

SEC. 81. Upon payment of the compensation thus ascertained by a jury, the right of way over said lands, or the use of said lands for the purposes for which the same were required, shall vest in the person or corporation who shall hold the charter of such highway, so long as the same shall be used for such highway, and no longer; but the fee in such lands,

subject to such special uses, shall remain in the owner thereof, and nothing herein contained shall be construed to confer upon such person or corporation any right in, or power over, the lands so condemned, other than such as may be within the particular purpose for which such lands were condemned.

Liability to condemnation.
Ib., § 8.

SEC. 82. No lands or right of way which have heretofore, or may hereafter be, procured for the construction or use of any highway, shall be considered exempt from liability to condemnation; but the right of way over said land and across or along such right of way may be condemned for the construction of any other highway: *Provided*, That in the construction of such other highway there be no hindrance to the use and enjoyment of the highway for which such lands or right of way were previously procured; and in all such cases notice of the application for a jury shall be served upon the President of the corporation whose lands or right of way shall be required, or upon any Director or local agent of the corporation.

Proviso.

Right of entry for survey, &c.
Ib., § 9.

SEC. 83. Nothing herein contained shall be construed to prevent entry upon any lands for purposes of survey and location; and if in any case the owner of any lands shall permit the person or corporation requiring a right of way over the same to enter upon the construction of the highway without previous compensation, the said owner shall have the right, after the highway shall have been constructed, to demand compensation, and to petition for an assessment of the same in the manner hereinbefore directed: *Provided*, Such petition shall be filed within twelve months after the highway shall have been completed through his or her lands.

Proviso.

Proceedings to be filed with County Clerk.
Ib., 92, § 10.

SEC. 84. All proceedings in relation to the condemnation of lands for the right of way, or for other necessary uses of any chartered highway, shall be filed in the office of the Clerk of the Court of Common Pleas for the County in which such proceedings were had, and shall be there of record. If the lands required, or over which the right of way be required, shall be partly in one County and partly in another, the proceedings shall be instituted in that County in which the owner, or a majority of the owners, reside; and if the owner or owners shall reside in neither of the Counties, or if there shall be an equal number of the several owners in each County, the proceedings shall be instituted in that County in which shall lie the greater part of the lands in reference to which such proceedings are instituted.

Where to be instituted.

Clerk's fees.
Ib., § 11.

SEC. 85. The Clerk of the Court shall be entitled to a fee of ten dollars in every case instituted for the condemnation of lands under this Chapter; the same to cover all charges incident thereto prior to appeal, including also fees for recording, but not including costs of advertising; to which shall be added, in cases of appeal, an additional fee of two dollars, the same to cover all charges incident to the appeal; that the Sheriff shall be entitled to a fee of one dollar and mileage at the rate of five cents per mile for each service of notice or other paper; and, for the summoning of jurors, the same fee by law allowed for the summon-

Sheriff's fees.

Jurors' fees.

ing of jurors for the Courts of Common Pleas; and the jurors shall be entitled to the same per diem and mileage by law allowed for attendance as jurors at the Courts of Common Pleas; all of which costs, except the costs of appeal, shall be paid by the person or corporation requiring the lands or right of way, and the costs of appeal shall, in all cases, be paid by the losing party.

By whom paid.

SEC. 86. Any juror, duly summoned to attend at the time and place designated, who shall fail to attend, shall be proceeded against in the same manner, and be subject to the same penalties, which are or may be prescribed by law for default in attending as jurors at the Court of Common Pleas.

Penalty for failure of jurors to attend Ib., § 12.

CHAPTER LXIV.

OF CORPORATIONS ORGANIZED UNDER GENERAL STATUTES.

SEC.

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Mechanical, Mining, Quarrying and Manufacturing Companies.

Organization. 1869, XIV, 295, § 1; Con., Art. XII, § 1.

SECTION 1. That three or more persons who shall have associated themselves together by articles of agreement, in writing, for the purpose of carrying on any mechanical, mining, quarrying or manufacturing business, and shall have complied with the provisions of this Chapter, shall be and remain a corporation, under any name indicating their corporate character, assumed in their articles of association, and which is not previously in use by any other corporation or company.

Object and locality. Ib., § 2.

SEC. 2. The purpose for, and the place within, which such corporation is established, shall be distinctly and definitely specified in the articles of association, and such corporation shall not direct its operations or appropriate its funds to any other purpose.

First meeting Ib., § 3.

SEC. 3. The first meeting of such corporations shall be called by notice, signed by one or more of the persons named in such agreement, stating the time, place and purposes of the meeting, a copy of which shall, seven days at least before the meeting, be given to each member, or published in some newspaper printed in the County where the corporation is to be located.

Proceedings if legality of organization be questioned Ib., § 4.

SEC. 4. If doubts arise whether any such corporation is legally organized, the stockholders, at a special meeting called for the purpose, under their by-laws, or under the preceding Section, may, by vote, confirm such organization and all proceedings under it; and by so doing, and depositing one copy of such vote with the Clerk of the Court of Common Pleas for the County where the corporation is located, and one with the Secretary of State, such corporation, and the subsequent acts thereof, shall be held legal and valid, as if the original organization had been legal.

By-laws. Ib., 295, § 5.

SEC. 5. Every corporation so organized, and its officers and stockholders, may make by-laws not repugnant to the laws of the State, with penalty for the breach thereof not exceeding twenty dollars for each offence.

Officers. Ib., § 6.

SEC. 6. The business of the company or corporation shall be managed and conducted by a President, or Board of Directors, a Clerk, Treasurer, and such other officers and agents and factors as the company authorizes for that purpose.

How and when chosen. Ib., § 7.

SEC. 7. The Directors, Clerk and Treasurer shall be chosen, annually, by the stockholders, and shall hold their offices until others are chosen and qualified in their stead. The manner of such choice, and the mode of the choice or appointment of all other agents, factors and officers of the company, shall be prescribed by the by-laws.

Number of Directors; President. Ib., § 8.

SEC. 8. The number of the Directors shall not be less than three; one of them shall be chosen President by the Directors, or by the company, as the by-laws shall direct.

Clerk; Treasurer's bond
Ib., § 9.

SEC. 9. The Clerk shall be sworn, and shall record all the votes of the company in a book to be kept for that purpose, and perform such other duties as shall be assigned to him. The Treasurer shall give bond in such sum, and with such sureties, as shall be required by the by-laws, for the faithful discharge of his duty.

Proxies; quorum.
Ib., § 10.

SEC. 10. At all meetings of the company, absent stockholders may vote by proxy, authorized in writing, but no proxy shall be valid unless executed and dated within six months previous to the meeting at which it is used, if the maker thereof resides in the United States; and no person shall, as proxy or attorney, cast more than fifty votes, unless all the shares so represented by him are owned by one person; and no officer of the corporation, as proxy or attorney, shall cast more than twenty votes. Every company may determine, by its by-laws, what number of stockholders shall attend, either in person or by proxy, or what number of shares or amount of interest shall be represented at any meeting to constitute a quorum. If the quorum is not so determined, a majority in interest of the stockholders shall constitute a quorum.

Capital stock.
Ib., § 11.

SEC. 11. The capital stock of every such company, the amount whereof has been fixed and limited by such company according to law, shall remain so fixed, subject to be increased or reduced pursuant to the provisions of this Chapter.

Shares.
Ib., § 12.

SEC. 12. The amount of the capital stock of every such company not organized shall be fixed and limited by the company, and shall, at its first meeting, be divided into shares, of which a record shall be made by the clerk.

To be numbered; certificate of.
Ib, § 13.

SEC. 13. The shares shall be numbered, and every stockholder shall have a certificate under the seal of the corporation, and signed by the Treasurer, certifying his property in such shares as are expressed in the certificate.

Diminution of amount of capital stock; shares not to issue for less than par.
Ib, § 14; 1871, XIV, 673, § 1.

SEC. 14. The amount of capital stock of such corporation shall be fixed and limited in its articles of association. The corporation may increase or diminish its amount and the number of shares at any meeting of the stockholders specially called for the purpose; but the capital shall never be less than five thousand, nor more than three millions of dollars, and no share shall be issued for less than its par value.

May hold property without the State.
1869, XIV, 296, § 15.

SEC. 15. Such corporation may, in its corporate name, take, hold and convey such real and personal eitate as is necessary for the purposes of its organization; may carry on its business, or so much thereof as is convenient, beyond the limits of the State, and may there purchase and hold any real or personal estate necessary for conducting the same.

Certificate to be published and filed before commencing business; also, after payment of installments.
Ib., 297, § 16.

SEC. 16. Before such corporation commences business, the President, Treasurer, and a majority of the Directors shall sign, swear to, publish three times in some newspaper printed in the town or County wherein such corporation is situated, and deposit with the Secretary of State, a certificate, setting forth the corporate name and purpose of the association, the amount of the capital stock, the amount actually paid in, and the par value of the shares in the corporation, and shall file a copy thereof with the Clerk of the Court of Common Pleas, in the County wherein the corporation is situated, to be by him recorded in a book kept for the purpose. Within thirty days after the payment of any installment called for by the Directors, a certificate thereof shall be in like manner signed, sworn to, deposited, filed and recorded.

Also when stock is increased or reduced.
Ib., § 17.

SEC. 17. When the capital stock and shares of any such corporation are increased or reduced, under the provisions of Section 14, a certificate thereof shall be made, signed, sworn to, deposited and recorded in the manner aforesaid.

Transfer of shares
Ib., § 18.

SEC. 18. Shares may be transferred by the proprietor by an instrument in writing, under his hand, and recorded by the clerk of the corporation in a book to be kept for that purpose. The purchaser named in such instrument, so recorded, shall, on producing the same to the Treasurer, and delivering to him the former certificate, be entitled to a new certificate.

Assessments
Ib., § 19.

SEC. 19. Every company may, from time to time, at a legal meeting called for the purpose, assess upon each share such sums of money as the company think proper, not exceeding, in the whole, the amount at which each share was originally limited, and such sums assessed shall be paid to the Treasurer at such times and by such installments as the company directs. No note or obligation given by the stockholder, whether secured by pledge or otherwise, shall be considered as payment of any part of the capital stock.

Stock may be sold for unpaid assessments.
Ib., § 20

SEC. 20. If the proprietor of any share neglect to pay a sum duly assessed thereon, for the space of thirty days after the time appointed for payment, the Treasurer of the company may sell at public auction a sufficient number of his shares to pay all assessments then due from him, with the necessary incidental charges.

Sales and transfer of stock sold for unpaid assessments.
Ib., § 21.

SEC. 21. The Treasurer shall give notice of the time and place appointed for such sale, and of the sum due on each share, by advertising the same three weeks successively before the sale, in some newspaper printed in the County where the corporation is established, and if there is no such paper, then in some newspaper printed in an adjoining County, and a deed of the shares so sold, made by the Treasurer, and acknowledged before a Trial Justice, and recorded as provided in Section 18, shall transfer said shares to the purchaser, who shall be entitled to a certificate therefor.

Personal liability of members.
Ib., § 22.

SEC. 22. The members of every company shall be jointly and severally liable for all debts and contracts made by the company, until the whole amount of capital stock fixed and limited by the company in manner aforesaid, is paid in and a certificate thereof made and recorded as prescribed in the following Section.

On payment of last installment, certificate to be filed with Register
Ib., 298, § 23.

SEC. 23. The President and Directors, with the Treasurer and Clerk of such companies, shall, after the payment of the last installment of the capital stock, make a certificate, stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the President, Treasurer, Clerk and a majority of the Directors, and they shall cause the same to be recorded in the office of the Register of Mesne Conveyances for the County wherein the corporation is established.

To file certificate on increasing capital stock.
Ib., § 24.

SEC. 24. If a company increases its capital stock as before provided in this Chapter, the officers mentioned in the preceding Section, after payment of the last installment of such additional stock, shall make a certificate of the amount so added and paid in, sign and swear to the same, and cause it to be recorded in the manner therein provided

Liability of officers in certain cases.
Ib., § 25.

SEC. 25. If any of said officers refuse or neglect to perform the duties required of them in the two preceding Sections, they shall be jointly and severally liable for all debts of the company contracted after the expiration of thirty days from the payment of the last installment, and before such certificate is so recorded.

To record resolution to reduce stock.
Ib., 26.

SEC. 26. If a corporation diminish its capital stock, as hereinbefore provided, a certified copy of the resolution or vote for that purpose shall be recorded in the office of the Register of Mesne Conveyances for the County wherein the company is established; and, in default thereof, the Directors of the company shall be jointly and severally liable for all debts of the company contracted after thirty days from such reduction, and before the recording of such copy.

Stock not to be refunded before payment of debts.
Ib., § 27.

SEC. 27. If any part of the capital stock of a company is withdrawn and refunded to the stockholders before the payment of all the debts of the company contracted previously to the recording of the copy of the vote for that purpose in the office of the Register of Mesne Conveyances, as prescribed in the preceding Section, all stockholders of the company shall be jointly and severally liable for the payment of such debts.

Certificates, when to be filed, and what to contain.
Ib., § 28.

SEC. 28. Every corporation organized under the provisions of this Chapter shall file the certificates required of corporations by Sections 23 and 24, and the Directors shall make, and the President, Treasurer and a majority of the Directors shall sign, swear to and deposit with the Clerk of the Court of Common Pleas for the County in which said corporation is established or located, within thirty days after the date of the annual or semi-annual meeting next preceding the date of such cer-

tificate, a certificate stating the date of such annual or semi-annual meeting, the amount of capital stock paid in, the name and number of shares held by such stockholders, the amount vested in real estate and in personal estate, the amounts of property owned by and debts due to the corporation, and the amount, as nearly as can be ascertained, of existing demands against the corporation; all as ascertained and exhibited at the date of such annual or semi-annual meeting.

Liability of officers for violations of Sec. 16, 17 and 28. Ib., § 29.

SEC. 29. If the officers of any such corporation violate the provisions of Section 2, or neglect or refuse to perform the duties required by Sections 16, 17 and 28, they shall be jointly and severally liable for all debts of the corporation contracted during the continuance of such violation, refusal or neglect.

Certificates may be filed after due; officers' liability ceases from time of filing. Ib., § 30.

SEC. 30. When the officers of such corporation have failed to perform the duties prescribed in Sections 16, 17 and 28, the certificates therein mentioned may be made, filed and published at any time after such failure, and such officers shall not be personally liable for the debts of the corporation contracted after the requisitions of said Sections have been complied with.

Directors liable for debts if dividend is declared by insolvent company.

Proviso. Ib., § 31.

SEC. 31. If the Directors of any such company declare and pay any dividend, when the company is insolvent, or the payment of which would render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all thereafter contracted, so long as they respectively continue in office: *Provided*, That the amount for which they shall all be so liable shall not exceed the amount of such dividend, and if any of the Directors are absent at the time of making the dividend, or object thereto, and file their objection in writing with the Clerk of the company, they shall be exempted from such liability.

No loans to be made to stockholders. Ib., § 32.

SEC. 32. No loan of money shall be made by such company to stockholders therein, and if any such loan is made to a stockholder, the officers who make it or assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the company contracted before the re-payment of the sum so loaned.

Debts not to exceed double amount of capital stock; Directors liable.

Proviso. Ib., § 33.

SEC. 33. The whole amount of the debts which any such company at any time owes, shall not exceed double the amount of its capital stock actually paid in; and in case of any excess, the Directors under whose administration it occurs shall be jointly and severally liable to the extent of such excess, for all the debts of the company then existing, and for all that are contracted, so long as they respectively continue in office, and until the debts are reduced to the amount of the capital stock: *Provided*, That any of the Directors who are absent at the time of contracting any debt contrary to the foregoing provisions, or who object thereto, may exempt themselves from liability, by forthwith giving notice of the fact to the stockholders, at the meeting they may call for that purpose.

Liability for false certificates.
Ib., § 34.

SEC. 34. If any certificate made or public notice given by the officers of such a company, in pursuance of the provisions of this Chapter, is false in any material representation, all the officers who signed the same, knowing it to be false, shall be, jointly and severally, liable for all the debts of the company contracted while they were stockholders or officers thereof.

Action against company and officers may be prosecuted together.
Ib., § 35.

SEC. 35. When any of the officers of such a company are liable to pay the debts of the company, or any part thereof, any person to whom they are so liable may have an action against any one or more of said officers, and the complaint in such action shall state the claim against the company, and the grounds on which the plaintiff expects to charge the defendants, personally; and such action may be brought, notwithstanding the pendency of an action against the company for the recovery of the same claim or demand; and both of the actions may be prosecuted until the plaintiff obtains the payment of his debt, and the costs of both actions.

Property of stockholders may be taken on attachment or execution against company.
Ib., § 36.

SEC. 36. When the stockholders of such a company are liable to pay the debts of such company, or any part thereof, their property may be taken therefor, on an order of attachment, or on execution issued against the company for such debt, in the same manner as on orders of attachment and executions issued against them for their individual debts.

Officer or stockholder may recover against company.
Ib., § 37.

SEC. 37. An officer or stockholder of such a company, who voluntarily or by compulsion pays a debt of the company, for which he is made liable by the provisions of this Chapter, may recover the amount so paid, in an action against the company, paid for its use, in which action the property of the company only shall be liable to be taken, and not the property of any stockholder.

Extension of powers of certain companies.
Ib., 300, § 40.

SEC. 38. Corporations organized for the purpose of manufacturing cotton or woolen goods may, upon the consent of four-fifths of the stockholders, by vote, at a meeting called for the purpose, carry on the manufacture of silk, linen, wax or India rubber goods.

May issue bonds.
1871, XIV, 673, § 2.

SEC. 39. Any incorporation formed in compliance with the foregoing terms is hereby empowered and authorized to issue bonds, secured by lien on the property of the said corporation, to an amount not exceeding the value of the property owned by said corporation, with interest on said bonds payable semi-annually; and any such corporation is hereby authorized and empowered to issue additional bonds to such an amount that the interest thereon, at 8 per cent. per annum, shall not exceed the net income of said corporation.

"Corporation" and "company" synonymous; Legislature may dissolve.
1869, XIV, 300, §§ 39-41.

SEC. 40. The words "corporation" and "company" shall be construed as synonymous or interchangeable terms in the preceding Sections of this Chapter, and the Legislature may amend or repeal the foregoing provisions so as to affect existing corporations, and, may, by special Acts, annul or dissolve any such corporation.

Religious, Educational and Charitable Associations.

Incorporation of Protestant Episcopal Church Associations. 1883, XIII, 150, § 1.

SEC. 41. That hereafter, when any male adults, being not less than twelve in number, in this State, shall desire to associate themselves together for the purpose of forming a Church, according to the doctrine, discipline, and worship of the Protestant Episcopal Church, in this State, they shall be allowed to do so by filing with the Clerk of the Court of Common Pleas and General Sessions, for the County in which the said applicants reside, a written statement of such purpose and intention, signed by them, and setting forth the name of their Church and the style of their corporation, which statement shall be recorded in the said Clerk's office, and on receiving his certificate thereof they shall become a body politic and corporate, for the purpose aforesaid, and shall be known by the name and style designated in their said written statement.

Corporate powers. Ib., 151, § 2.

SEC. 42 The said corporations shall, by their respective corporate names, have succession of officers and members, according to their respective by-laws, and shall have power to make all by-laws, rules and regulations for their government, not repugnant to the laws of South Carolina, or the Constitution, canons, and other regulations of the Protestant Episcopal Church in the same; to have and to keep and use a common seal, and the same to alter at will; to sue and be sued, plead and be impleaded, in any Court of this State, and to have and enjoy every right incident to incorporations.

May acquire and alien property. Ib., § 3.

SEC. 43. They shall also be empowered, severally, to retain, possess, and enjoy all such property, real or personal, as they may respectively be possessed of, or in any wise entitled unto, or which shall hereafter be given or bequeathed to, or in any way acquired by them, and to sell, alien, and in any way transfer the same, or any part thereof.

Congregations already incorporated may reorganize hereunder. Ib., § 4.

SEC. 44. Any congregation of the Protestant Episcopal Church already incorporated in South Carolina may, on expiration of their charter, or at any time before, if they see proper to surrender their charter, become a body politic and corporate, under the provisions of Sections 41 to 43, inclusive, of this Chapter, by making known their intentions to do so, according to the provisions of the forty-first Section thereof.

Charters perpetual; subject to repeal. Ib., § 5.

SEC. 45. Charters secured or renewed under Sections 41 to 44, inclusive, shall be perpetual, subject, however, to the power of the General Assembly to repeal or alter the same.

Authority of Methodist Episcopal Church to organize societies. 1864, XIV, 258, § 1

SEC. 46. That the Methodist Episcopal Church of the United States is authorized to organize religious societies and churches in this State, in accordance with the rules and requirements of the discipline of said church.

Trustees. Ib. § 2.

SEC. 47. Whenever five or more persons are associated, being organized and appointed Trustees of the Methodist Episcopal Church according to the discipline thereof, they shall be a body politic with powers and privileges incident to a corporation for religious purposes.

SEC. 48. Such Trustees shall have succession of officers as provided by said church's discipline; may receive, hold and manage all the property, both real and personal, belonging to said society or church, and hold in trust, gifts, grants, bequests or donations made to such society or church for the support of public worship and other religious purposes, being governed in their official action by the discipline of said Methodist Episcopal Church.

Powers of Trustees. Ib § 3.

SEC. 49. Each society or church so organized shall, at their organization, draw up a statement of the same, setting forth the facts, signed by the Chairman and Secretary, which statement shall be recorded in the office of the County Clerk.

Statement to be recorded with County Clerk. Ib. § 4.

SEC. 50. That the African Methodist Episcopal Church in this State is hereby incorporated, with all the rights and privileges awarded to religious denominations within this State.

African M. E Church incorporated 1871, XIV, 323, § 1.

SEC. 51. The said African Methodist Episcopal Church shall exercise and enforce its discipline, in accordance with the regulations of the same, within any branches of the said church within this State established, and shall be protected in law in the same; and all property acquired by the said church shall be held by them according to the form of deeds designated by their discipline and mode of government.

Powers and franchises. Ib., § 2.

SEC. 52. The said church may acquire lands within this State for religious and educational purposes, and regulate and govern the same as they may deem proper, in accordance with their law and discipline, such laws not being inconsistent with the laws of the State.

May acquire lands. Ib, § 3.

SEC. 53. That seven or more persons, within this State, having associated themselves, by agreement in writing, for educational, charitable, or religious purposes, under any name by them assumed, and complying with the provisions of the four following Sections, shall, with their successors, be, and remain, a body politic and corporate.

Incorporation of charitable and religious associations. 1870, XIV, 373, § 1.

SEC. 54. The purpose of such corporation, and the place within which it is established or located, shall be distinctly specified in its articles of association, which articles, and all amendments thereto, shall be recorded in the office of the Register of Mesne Conveyances for the County wherein such place is situated, and such corporation shall appropriate its funds to no other purpose.

Purpose and locality; articles to be recorded. Ib, § 2

SEC. 55. Such corporations shall have the powers and privileges, and be subject to the duties, liabilities and restrictions set forth in Sections 1 to 38, relating to the formation of mechanical, mining, quarrying and manufacturing corporations, so far as the same may be applicable.

Powers, privileges and liabilities. Ib., 374, § 3.

SEC. 56. Such corporations may hold real and personal estate, necessary for the purposes of their organization, to an amount not exceeding one hundred thousand dollars.

May hold property. Ib., § 4.

Taxation of estate
Ib., § 5

SEC. 57. Their estate shall not be exempted from taxation in any case where part of the income or profits of their business is divided among members or stockholders, or where any portion of such estate is used or appropriated for other than educational, charitable, or religious purposes.

CHAPTER LXV.

OF RAILROAD CORPORATIONS.

SEC.
1. No charter to be granted without notice. Notice to be given, how and when.
2. Liability for loss or injury to goods, &c., not to be limited by notice, &c.
3. Rule for voting at meetings, &c.
4. To make annual report to Comptroller General. Form of report.
5. Penalty for failure to make.
6. Consolidation of stock, franchises and property, to form continuous line; provisoes.
7. Rules to govern consolidation. Agreement between companies. Agreement to be ratified by stockholders, &c.; to be filed with Secretary of State.
8. On perfecting agreement and filing same, consolidation complete.
9. Title to property vested in consolidated corporations. Rights of creditors and heirs unimpaired.
10. Establishing offices; notice of, to be published.
11. Suits by and against new company.
12. Property to be subject to taxation.
13. Proceedings in case any stockholders refuse to convert stock.
14. Connecting road may purchase other road sold by order of Court.
15. Railroads may purchase stock and bonds of other companies. Proviso.

No charter to be granted without notice.

Notice to be given, how and when

Joint Res., 1835, p. 167.

SECTION 1. That no charter for the incorporation of railroad companies, or any extension thereof, shall be granted by the Legislature, unless three months' public notice of the application for the same be previously given by advertisement in one of the papers of the city of Charleston, and also in one of the papers of the County in which such road may be situated; or, if there be no newspaper in such County, then, by publication of such notice at the Court House, or some conspicuous public place in the County.

Liability for loss or injury to goods, &c., not to be limited by notice, &c.

1864, XIII, 261, § 1.

SEC. 2. That no public notice, or declaration, or special contract, shall limit or in anywise affect the liability, at common law, of any railroad company within this State, for or in respect of any goods to be carried and conveyed by them; but such railroad company shall be liable, as at common law, to answer for the loss of, or injury to, any articles and goods to be carried and conveyed by them, any public notice, or declaration, or special contract, by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.

Rule for voting at meetings, &c.

1870, XIV, 337, § 11.

SEC. 3. That at all general or special meetings or elections of the stockholders of any railroad company incorporated by this State, each share of stock shall entitle the holder thereof to one vote: *Provided*, That nothing herein contained shall affect any other provisions of the charter of such company, except such as relate exclusively to the number of votes to which the holders of the shares of stock therein may be entitled.

To make annual report to Comptroller General

1861, XIII, 65, § 1.

SEC. 4. The several railroad companies chartered by this State shall be required to file in the Comptroller General's office, on or before the first day of October, in each year, reports, according to the following schedule, viz:

Abstract of Railroad Report of the ———————— *Company, for the Year Ending the First Day of October, of the Year one thousand eight hundred* ————————.

Name.	Capital Stock Subscribed.	Capital Stock paid in.	Bonds guaranteed by the State.	Funded Debt not guaranteed by the State.	Floating Debt.	Total Cost of Road.	Length of Road constructed.	Length of Branches.	Speed of Passenger Trains.	Speed of Freight Trains.	Earnings.	Expenses.	Net Earnings.	Dividends.	Surplus.	Failures of Passenger Trains to meet schedule time at junctions and termini.	Casualties.		Number of Passengers over Road.	Future Prospects of Road and General Remarks.
																	Persons Injured.	Persons Killed.		

Name of ——————— *President.*

Form of report.

Penalty for failure to make.

SEC. 5. Any railroad company which shall fail to make such report shall be liable to a penalty of one hundred dollars, to be recovered by action in any Court having jurisdiction.

Consolidation of stock, franchises and property, to form continuous line.

SEC. 6. It shall and may be lawful for any railroad company or corporation, organized under the laws of this State, and operating a railroad, either in whole within, or partly within and partly without this State, under authority of this and any adjoining State, to merge and consolidate its capital stock, franchises and property with those of any other railroad company, or companies or corporations, organized and operated under the laws of this or any other State, whenever the two or more railroads of the companies or corporations so to be consolidated shall or may form a continuous line of railroad with each other, or by means of any intervening railroad: *Provided*, That railroads terminating on the banks of any river, which are or may be connected by ferry or otherwise, shall be deemed continuous under this Chapter: *And provided, further*, That nothing in this Chapter contained shall be taken to authorize the consolidation of any company or corporation of this State with that of any other State whose laws shall not also authorize the like consolidation.

Provisoes. 1870, XIV, 334, § 1.

Rules to govern the consolidation. Ib., § 2.

SEC. 7. Said consolidation shall be made under the conditions, provisions, restrictions, and with the powers hereafter in this Chapter mentioned and contained, that is to say:

Agreement between companies.

1. The Directors of the several corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each Company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the Directors and other officers thereof, and who shall be the first Directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of the said companies into that of the new corporation, and how and when Directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies or railroads.

Agreement to be ratified by stockholders, &c.

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof, called separately, for the purpose of taking the same into consideration; due notice of the time and place of holding such meeting, and the object thereof, shall be given by a general notice, published in some newspaper in the city, town or county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said Directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote; and said ballots shall be cast in person or by proxy; and if a majority of all the votes of all the stockholders shall be for the adoption of said agreement, then that fact shall be certified thereon by the

Secretary of the respective companies, under the seal thereof; and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall, from thence, be deemed and taken to be the agreement and the act of consolidation of the said companies; and a copy of said agreement and act of consolidation, duly certified by the Secretary of State, under the seal thereof, shall be evidence of the existence of said new corporation.

To be filed with Secretary of State.

SEC. 8. Upon the making and perfecting the agreement and act of consolidation, as provided in the preceding Section, and filing the same, or a copy, with the Secretary of State, as aforesaid, the several corporations, parties thereto, shall be deemed and taken to be one corporation by the name provided in said agreement and act, possessing within this State all the rights, privileges and franchises, and subject to all the restrictions disabilities and duties of each of such corporations so consolidated.

On perfecting agreement and filing same, consolidation complete.
Ib., 335, § 3.

SEC. 9. Upon the consummation of said act of consolidation, as aforesaid, all and singular the rights, privileges and franchises of each of said corporations, parties to the same, and all the property, real, personal and mixed, and all debts due on whatever account, as well as of stocks, subscriptions and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to, and vested in, such new corporation, without further act or deed; and all property, all rights of way, and all and every other interest, shall be as effectually the property of the new corporation as they were of the former corporations parties by said agreement; and the title to real estate, either by deed or otherwise, under the laws of this State, vested in either of such corporations, shall not be deemed to revert, or be in any way impaired by reason of the consolidation: *Provided*, That all rights of creditors, and all liens upon the property of said corporations, shall be preserved unimpaired; and the respective corporations may be deemed to continue in existence to preserve the same; and all debts, liabilities and duties of either of said companies shall thenceforth attach to said new corporation, and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

Title to property vested in consolidated corporations.

Rights of creditors and heirs unimpaired.
Ib., § 4.

SEC. 10 Such new company shall, as soon as convenient after such consolidation, establish such offices as may be desirable, one of which shall be at some point in this State on the line of its road, and may change the same at pleasure, giving public notice thereof in some newspaper published on the line of said road.

Establishing offices; notice of, to be published.
Ib., 336, § 5.

SEC. 11. Suits may be brought and maintained against such new Company in any of the Courts of this State, for all causes of action, in the same manner as against other railroad companies therein.

Suits by and against new company
Ib., § 6.

SEC. 12. That portion of the road of such consolidated Company in this State, and all its real estate and other property heretofore subject to taxation, shall be subject to like taxation, and assessed in the same man-

Property to be subject to taxation.
Ib., § 7.

ner, and with like effect, as property of other railroad companies in this State.

Proceedings in case any stockholders refuse to convert stock.
Ib., § 8.

SEC. 13. Any stockholder of any company hereby authorized to consolidate with any other, who shall refuse to convert his stock into the stock of the consolidated company may, at any time within thirty days after the adoption of the said agreement of consolidation by the stockholders, as in this Chapter provided, apply, by petition, to the Court of Common Pleas of the County in which the chief office of said company may be kept, or to a Judge of said Court in vacation, if no such Court sits within said period, on reasonable notice to said company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by said proposed consolidation, and whose award, or that of a majority of them, when confirmed by the said Court, shall be final and conclusive; and the persons so appointed shall also appraise said stock of said stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of the said consolidation; and the said company may, at its election, either pay to the said stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined, and upon the payment of the value of the stock, as aforesaid, the stockholder shall transfer the stock so held by him to said company, to be disposed of by the Directors of said company, or to be retained for the benefit of the remaining stockholders; and in case the value of said stock, as aforesaid, is not so paid within thirty days from the filing of said award, and confirmation by said Court, and notice to said company, the damages, so found and confirmed, shall be a judgment against said company, and collected as other judgments in said Court are by law recoverable.

Connecting road may purchase other road, sold by order of Court.
Ib., § 9.

SEC. 14. When any railroad shall be sold and conveyed by virtue of any mortgage or deed of trust, or under and by virtue of any process or decree of any Court of this State, or of the Circuit Court of the United States, it may be lawful for any company, of which the railroad connects therewith, to purchase and pay for the same, to issue their own stock for such an amount as the purchasers may deem the full and fair value thereof, and to hold and enjoy the railroad so purchased, with all the rights, privileges and franchises, and with the same rights to charge for tolls, transportation, and car services, and subject to the same restrictions as were held, enjoyed and limited by and in respect to the company of which the road may be so sold.

Railroads may purchase stock and bonds of other companies.

SEC. 15. It shall and may be lawful for any railroad company created by, and existing under the laws of this State, from time to time, to purchase and hold the stock and bonds, or either, of any other railroad company or companies chartered by, or of which the road or roads is or are authorized to extend into this State; and it shall be lawful for any railroad companies to enter into contracts for the purchase, use or lease of any other railroads, upon such terms as may be agreed upon with the company or companies owning the same, and to run, use and

operate such road or roads in accordance with such contract or lease: *Provided*, That the roads of the companies so contracting or leasing shall be directly, or by means of intervening railroads, connected with each other.

Proviso.
Ib., 357, § 10.

CHAPTER LXVI.

Of Draining Corporations.

Sec.
1. How incorporated; by what name to be known; powers
2. Right of entry for inspecting, &c., given; method of obtaining land.
3. Commissioners to be appointed by Court.
4. Their duties.
5. In case of dispute, trial to be by jury; new trial allowed
6. Appeal from Commissioners to Court
7. Upon final determination, land to be entered on, &c.; costs on appeal.
8. Rent to be paid by persons not members for use of canal.
9. Terms on which adjoining owners may become members.
10. Lands liable for debts of corporation.
11. Who to be deemed owners of land for purposes of this Chapter; proviso
12. What to be deemed inland swamps.
13. Officers of corporation, &c.
14. When swamp or bottom lands to be deemed an inland swamp.
15. When owner of inland swamp may have the rights of a corporation.

How incorporated.

Section 1. That whenever two-thirds or more of the proprietors of lands lying in any inland swamp, owning not less than two-thirds of such swamp, shall associate themselves together, by written articles of agreement, for the purpose of draining and improving the same, (to be filed and recorded in the Clerk's office of the County in which the said land, or the larger portion thereof, may lie,) they shall, thereupon, become and be a body corporate, for the purpose aforesaid, by the name of the proprietors of said swamp, designated by the name by which it is commonly called and known, and shall have power and authority to make and ordain by-laws for the regulation and government of such corporation, not inconsistent with any law or statute of force within this State, and to make such assessments of money and labor on the members of the corporation as may be requisite for carrying into effect the objects thereof.

By what name to be known.

Powers.
1-56, XII, 565, § 1.

Right of entry for inspecting, &c., given.

Sec. 2. It shall be lawful for every such corporation, by its agents, surveyors, engineers and assistants, to enter upon any lands and premises lying in or near the swamp, for the draining and improvement whereof such corporation shall have been formed, and owned by persons not being members of such corporation, for the purpose of inspecting, examining and surveying the same; and if it shall appear by the report of a competent engineer to be necessary for the draining and improvement of such swamp that any canal, water-way, ditch, drain, dam, embankment, sluice, flood-gate, or other work, should be made or constructed in, through, or upon any lands of any person not a member of

Method of obtaining land.
Ib., 2.

the corporation, and no agreement can be made for obtaining the consent of the owner of said land thereto, then such corporation may apply, by petition, to the Circuit Court of Common Pleas of the County in which such land is situated, (and if it lies in several Counties, to the Court of either of said Counties,) setting forth the facts of the case, and praying that Commissioners may be appointed by the Court to ascertain and assess the value of the land which would be occupied by such works, and also the amount of loss or damage which the making or construction thereof would cause to the owner of the land; a copy of which petition, together with a copy of the engineer's report upon which it is founded, and notice in writing of the time and place at which the same will be brought to a hearing, shall be served upon the owner of the land at least ten days before such hearing.

Commissioners to be appointed by Court.
Ib.

SEC. 3. Upon the hearing of such petition, unless it be denied by affidavit that it is necessary for the draining and improvement of such swamps to make or construct any such works, as aforesaid, through or upon the land owned by any person not a member of the corporation, and affirmed in the same manner, that such swamp can be as well and effectually drained and improved without encroaching upon any such land, the Court shall appoint three competent and disinterested persons to be commissioners for the purposes aforesaid.

Their duties.
Ib.

SEC. 4. The persons so appointed having first been duly sworn to execute and perform the duties assigned them as such commissioners, truly and impartially, and to the best of their judgment and ability, shall proceed to inspect and examine the premises, giving at least three days' previous notice of such inspection and examination to the parties interested, and after such inspection and examination, to make the valuation aforesaid, and return the same in writing under their hands, to the Court.

In case of dispute, trial to be by jury.

SEC. 5. In case of such denial and affirmation, as aforesaid, the issue so made shall be submitted in a summary manner to a jury, and upon the finding of a jury, if the same shall be for the petitioners, commissioners shall be appointed, and proceed as before directed; but if the jury find for the respondents or defendants, no appointment of commissioners shall be made: *Provided*, That either party may move for a new trial; but not more than one new trial shall be allowed in any case on the same issue.

New trial allowed.
Ib.

Appeal from Commissioners to Court.
Ib.

SEC. 6. Either party may appeal from the valuation and assessment made by the commissioners to the Court at its next session after such valuation and assessment, giving reasonable notice of such appeal to the other party, whereupon the Court shall cause a new valuation and assessment to be made by a jury, and their verdict shall be final and conclusive, unless a new trial be granted: *Provided*, That not more than one new trial shall be allowed in any such case of valuation and assessment.

Upon final determination, land may be entered on, &c.

SEC. 7. Upon the final determination of such violation and assessment, either by the return of the commissioners not appealed from, or in case of appeal by the finding of a jury not appealed from, or upon a second finding after a new trial is granted, and upon payment of the amount of such valuation and assessment to the party entitled to receive the same, or upon tender and refusal thereof and payment of the same into Court, it shall be lawful for the corporation, at all times thereafter, by its officers and agents, to enter upon the land to which such valuation and assessment had reference, for the purpose of making and constructing, maintaining and keeping in repair any such work, as aforesaid. In all cases of appeal full costs shall be awarded.

Costs on appeal.

Ib.

Rent to be paid by persons not members, for use of canal.

Ib., 567, § 3.

SEC. 8. If any person owning land in or near any inland swamp, for the draining and improvement whereof any such corporation shall have been formed, not being a member of the same, or any tenant or agent of such person shall, for the purpose of draining, flowing, or in any manner using, benefiting or drawing profit from such land, make use of any canal, water-way, ditch, drain, dam, embankment, sluice, flood-gate, or other work made or constructed by such corporation, without the consent of the corporation, such owner or tenant shall be liable to pay to the corporation such reasonable rent therefor as they may demand, not exceeding one-third of the clear annual value of the land, including any addition thereto derived from the use of any such work as aforesaid.

Terms on which adjoining owners may become members.

Ib.

SEC. 9. That if the owner of the land in or near any inland swamp, for the draining and improvement whereof any such corporation shall have been formed, desires to become a member of such corporation, instead of paying rent as above provided, he shall be at liberty to do so by paying his proportion of the expenses incurred by the company with interest on the same.

Lands liable for debts of corporation.

Ib., § 4.

SEC. 10. All the lands drained and improved by any corporation formed as aforesaid, and owned by members of such corporation, shall be liable for the debts of the corporation, and if the land of any member of any such corporation shall be taken in execution and sold to satisfy any judgment or decree against the corporation, the person whose land shall have been so taken in execution and sold shall be entitled to receive as compensation therefor, by contribution from the other members of the corporation, the value thereof, and shall have the benefit of the lien of such judgment or decree for enforcing the payment thereof, for which purpose such judgment or decree shall remain in full force and virtue.

Who to be deemed owners of land for purposes of this Chapter.

SEC. 11. Any person having a legal or equitable estate, in fee or for life, in land lying in any inland swamp, or in land through or upon which it may be necessary to make or construct any work for draining or improving any such swamp, (except mere trustees without beneficial interest,) shall be deemed a proprietor or owner of such land, for the purposes of this Chapter, and in every case in which any such person shall be an in-

fant, married woman, idiot or lunatic, the guardian of such infant, the husband of such married woman, and the committee of such idiot or lunatic, shall be deemed a proprietor or owner of such land, for the purposes of this Chapter: *Provided*, That such guardian, husband, or committee, shall apply in a summary way, by petition to the Court of Probate in behalf of their respective infants, wives, idiots or lunatics, for leave to become members of any corporation formed under this Chapter for draining and improving the swamp in which the lands of such infants, wives, idiots and lunatics, are situated, in respect of such lands, and the said Court shall have power to inquire into the propriety of granting such leave, and to make such order therein as may seem meet; and if the Court shall grant leave, it shall be lawful for the person who shall have presented the petition, to become a party to the articles of association for forming such corporation in respect of such land, and the same shall be as binding and effectual, to all intents and purposes, as if such person had been the actual proprietor of such land.

Proviso.
Ib., 568, § 5.

What to be deemed inland swamps.
Ib., § 6.

SEC. 12. Every swamp, except such as are commonly called river swamps, or river bottoms, or river margins, shall be deemed an inland swamp, for the purposes of this Chapter.

Officers of corporation, &c.
Ib., § 7.

SEC. 13. Every corporation formed under the provisions of this Chapter shall have a Chairman and a Secretary, and shall keep regular minutes of its proceedings.

When swamp or bottom lands to be deemed an inland swamp.
Ib., § 8.

SEC. 14. Whenever two-thirds or more of the proprietors of the swamp or bottom lands lying on any river, creek, or other water course, owning not less than two-thirds of all such swamp or bottom, shall enter into written articles of agreement that such swamp or bottom shall be deemed and taken to be an inland swamp, and be subject to the provisions of this Chapter, such swamp or bottom shall thereupon be deemed and taken to be an inland swamp, and be subject to all the provisions of this Chapter, in the same manner as other inland swamps, and the owners thereof shall be invested with all the rights, powers and privileges as hereinbefore given to the owners of inland swamps, and shall be subject to the same conditions and obligations.

When owner may have the rights of a corporation.
Ib., 569, § 9.

SEC. 15. That where said inland swamp is owned to the amount of two-thirds by one individual, he or she shall possess all the rights and powers conferred by this Chapter on the corporation aforesaid.

CHAPTER LXVII.

Of Certain Powers and Liabilities of Corporations.

SEC.
1. Corporations may recover debts from their members.
2. Not to issue bills of credit as a circulating medium; penalty for so doing; proviso.

SECTION 1. That all bodies corporate, in any Court in this State, may sue for, recover and receive, from their respective members, all arrears or other debts, dues and demands which now are, or hereafter may be, owing to them, in the like mode, manner and form as they might sue for, recover and receive the same, from any indifferent person, who might not be one of their body; any law, usage or custom to the contrary thereof in anywise notwithstanding.

Corporations may recover debts from their members.
1792, VIII, 175, § 1.

SEC. 2. That no body politic or corporate, within this State, shall be allowed to issue any bills of credit in the nature of a circulating medium, or other than such as answer the purpose of contracts, under the penalty of ten dollars for each and every dollar issued: *Provided, nevertheless,* That this clause shall not be so construed as to affect the chartered rights of any banking institution within this State, incorporated by an Act of the Legislature.

Not to issue bills of credit. Penalty for so doing.
1814, VIII, 33, § 3.
1 Spears, 474.

Proviso.

TITLE XIV.

OF THE INTERNAL POLICE OF THE STATE.

CHAPTER LXVIII. *Of the Maintenance of Bastard Children.*
LXIX. *Of the State Lunatic Asylum.*
LXX. *Of Vagrants.*
LXXI. *Of Estrays.*
LXXII. *Of Drifted Lumber and Timber.*
LXXIII. *Of Wrecks and Shipwrecked Goods.*
LXXIV. *Of the Observance of the Lord's Day.*
LXXV. *Of Immigrants and Seamen.*
LXXVI. *Of Unclaimed Property Transported by Common Carriers.*
LXXVII. *Of the Protection of Game.*
LXXVIII. *Of the Protection of Oyster-beds.*
LXXIX. *Of Gambling.*
LXXX. *Of Licenses.*

CHAPTER LXVIII.

Of the Maintenance of Bastard Children.

SEC.
1. The reputed father of a bastard to maintain it; to give bond, &c.
2. Women who refuse to declare who is father of a bastard to be committed to jail or give security.
3. If warrant is resisted, Constable to make return to Clerk of Court, and party may be indicted, &c.
4. In case of denial by reputed father, jury to try the question. If he be convicted, he shall give security, &c.
5. In case of twins, recognizance to be for support of both, &c.

The reputed father of a bastard to maintain it.

1795, V. 270, § 1; 1859, XI, 24, § 12

1 N & McC., 554, 203; 2 N & McC., 125; 2 McC., 299; 2 Strob., 152; 1 S. C., 85.

SECTION 1. That if any woman be delivered of a bastard child or children, and shall, at any time after the birth thereof, give information to some Trial Justice of the County in which she resides, or may be so delivered, and will declare, on oath, who is the father of her child or children, it shall be the duty of such Trial Justice to issue a warrant to apprehend and bring before him, or some other Trial Justice, the person so accused, who shall be obliged to enter into a recognizance, with two good and sufficient sureties, in the penal sum of three hundred dollars, conditioned for the annual payment of twenty-five dollars for the maintenance of the child until the age of twelve years, and so to save harmless the said County.

To give bond, &c.

Women who refuse to declare who is father of bastard to be committed to jail or give security.

Ib.

SEC. 2. When any woman, who is charged with having had a bastard child or children, shall be brought before a Trial Justice, and shall not voluntarily give such information, such Trial Justice may, on information thereof, and that such child is likely to become a burden to the County, issue his warrant against such mother, requiring her to be brought before him, or the next Trial Justice, and declare who is the father, and, on her refusal so to declare, the Trial Justice aforesaid shall commit her to jail until she shall declare the same, or shall give security that the said bastard child shall not become chargeable to the County wherein she resides.

If warrant is resisted, Constable to make return to Clerk of Court, and party may be indicted, &c.

Ib

7 Rich., 362; 14 Rich., 29.

SEC. 3. Should the person accused evade or resist the warrant so issued, it shall be the duty of the Constable to return the same to the Clerk of the Court as other Sessions papers, with a special note thereof, by way of return, on oath, whereupon a bill of indictment may be given out, and, if found, a bench warrant may issue, and, in case the accused shall be arrested on any warrant issued, and shall refuse to enter into such recognizance, he shall be committed to prison, there to remain until he shall enter into such recognizance.

In case of denial by reputed father, jury to try the question; if he be convicted he shall give security, &c

Ib; 1847, XI, 436.

14 Rich., 177; 11 Rich., 356; 3 Hill, 275.

SEC. 4. Should such person be unable to comply with the requisitions hereinbefore mentioned, or should he deny that he is the father of the said child or children, a jury shall be charged, in the Court of Sessions, to try the question whether the accused is or is not the father of such child or children; and on his acquittal he shall be discharged; or, if convicted, he shall be required to give the security or recognizance hereinbefore required; and, in default thereof, shall be liable to execution, as are defendants convicted of misdemeanors: *Provided*, That, on

the annual payment of the sum of twenty-five dollars, the executions, except as to costs, shall be stayed until another installment falls due.

SEC. 5. If the birth be of twins, the recognizance or judgment shall be conditioned for the support of both the bastards, and for the payment of double the amounts required in the case of a single child.

In case of twins, recognizance to be for support of both, &c.

1795, V, 270, § 1.
1 McM., 338; 10 Rich., 366.

CHAPTER LXIX.

OF THE STATE LUNATIC ASYLUM.

SEC.
1. Legislature to elect nine Regents; their term of office; classification; filling of vacancies.
2. Regents incorporated; their powers, &c; to establish rates of admission.
3. Who to be admitted to Asylum:
   1. Those found idiots, &c., upon inquisition, &c.;
   2. Where requested by husband or wife, or next of kin;
   3. Those so declared after examination.
4. Idiots from other States may be admitted at usual rates.
5. Judges may direct inquisitions; order to be made on return thereof.
6. In criminal cases Judges may send persons *non compos mentis* to Asylum; how to be supported.
7. Judges of Probate may commit lunatics, &c., to Asylum.
8. Certain inmates not to be retained more than ten days without examination, &c.
9. Transient pauper lunatics to be received; appropriation for support.
10. Terms of admission; bond to be sued if not paid. Advances not to be exacted in certain cases.
11. Discharge of lunatics, &c.
12. Persons employed may be removed.
13. Regents to report to the Legislature.
14. Lots vested in Regents of Asylum.
15. May close up certain streets.

SECTION 1. That there shall be elected by both branches of the Legislature, nine Regents of the Lunatic Asylum, who shall hold their offices for six years from the day of election, except those who shall be first elected, who shall go out of office according to a ballot to be drawn by the Speaker of the House and President of the Senate, and reported to the General Assembly, in the following order, viz: The three Regents whose names are first drawn shall go out of office at the end of two years from the day of election; the three Regents whose names shall be next drawn, shall go out of office at the end of four years from the day of election; and the remaining Regents shall go out of office at the end of six years from the day of election. The Regents shall be re-eligible. A vacancy in the Regency shall be filled by the other Regents till the next regular legislative election.

Legislature to elect nine Regents.

1827, VI, 322, § 1.

Term of office; classification; filling of vacancies.

SEC. 2. The said Regents, by the name of "The Regents of the Lunatic Asylum of South Carolina," shall form a body corporate in deed and in law, for all the purposes of the said institution, with all the powers incident to corporations; and they shall be, and they are hereby, authorized and empowered to make and establish all rules, regulations and by-laws for the government of the institution; which, when made, shall be reported to the next Legislature for their approval or rejection; but, until rejected by the Legislature, shall be in force; and to fix the

Regents incorporated; their powers, &c.

Ib.

amount of the salary or emoluments of the keeper, officers, or medical attendants. To establish the rate of admission, maintenance and medical attendance of all the subjects of the said institution, providing such rates as shall support the institution without any charge on the Treasury of the State.

To establish rules of admission.

Who to be admitted to Asylum.

Ib.; Con., Art. IV, § 20.

SEC. 3. It shall be the duty of the Regency to admit as subjects of the institution all idiots, lunatics and epileptics, being citizens of this State, according to the following regulations, and subject to the following conditions, that is to say:

1. Those found idiots, &c., by inquisition, &c.

1. All persons who shall be found idiots or lunatics, by inquisition from the Probate or Circuit Courts, or on trials in the Circuit where the Court shall order such admission.

2. Where requested by husband or wife, &c.

2. Where it shall be requested under the hand of the husband or wife, or (where there is no husband or wife,) of the next of kin of the idiot or lunatic.

3. Those so declared after examination.

3. All persons who shall be declared lunatics, idiots or epileptics, after due examination by one Trial Justice and two licensed practicing physicians of the State. Where the subject is a pauper, the admission shall be at the request of the County Commissioners of the County wherein such pauper has a legal settlement; otherwise, the admission shall be at the request of the husband or wife, or, where there is no husband or wife, of the next of kin of the idiot, lunatic or epileptic.

Idiots from other States to be admitted at usual rates.

Ib.

SEC. 4. All idiots and lunatics from any of our sister States shall be admitted on such evidence of their lunacy or idiocy as the Regents regard sufficient; but no foreign lunatic or idiot shall be admitted or kept in the institution, to the exclusion of subjects being citizens of this State, and they shall pay the same rates as citizen subjects.

Judges may direct inquisitions.

Ib., 324, § 4; 1839, XI, 31, § 24

SEC. 5. Whenever a Judge of Probate, or Judge of the Circuit Court, shall direct an order to any Trial Justice, to enquire as to the idiocy, lunacy or epilepsy of any person, or when information, on oath, shall be given to any Trial Justice, that a person is an idiot, lunatic or epileptic, and is chargeable for his support on the County, it shall be the duty of such Trial Justice forthwith to call to his assistance two licensed practicing physicians, and examine such person, and the evidence of his or her idiocy, lunacy or epilepsy; and if, after full examination, they shall find such person an idiot, lunatic or epileptic, they shall certify to the said Judge, or to the Board of County Commissioners, whether, in their opinion, such person is curable or incurable, and whether his enlargement would be harmless or dangerous or annoying to the community; and thereupon the Judge or the Board of County Commissioners, in his or its discretion, may make an order that the said person shall be sent to the Lunatic Asylum.

Order to be made on return thereof.

In criminal cases Judge may send per-

SEC. 6. Any Judge of the Circuit Court is authorized to send to the Lunatic Asylum every person charged with the commission of any criminal offence, who shall, upon the trial before him, prove to be *non compos*

mentis; and the said Judge is authorized to make all necessary orders to carry into effect this power. Where the person so sent is not a pauper, he shall be supported out of his own estate, according to regulations to be prescribed by the Court, as on a return to a writ *de lunatico inquirendo.*

sons *non compos mentis* to Asylum.
1822, VI, 382, § 7

How supported.

SEC. 7. The Judge of the Probate Court may commit to the Lunatic Asylum any idiot, lunatic or person *non compos mentis*, who, in his opinion, is so furiously mad as to render it manifestly dangerous to the peace and safety of the community that he or she should be at large; and also, in all such other cases provided by law. In all cases the Judge shall certify in what place the said person or persons resided at the time of the commitment, and such certificate shall be conclusive evidence of such residence.

Judge of Probate may commit lunatics, &c., to Asylum.
Code of Procedure, § 72.

SEC. 8. No lunatic, idiot or epileptic, who may be declared a fit subject for the institution, by a Trial Justice and two physicians, or who shall be sent from a sister State, shall be retained in the institution more than ten days after his admission, except where there shall be entered in the record of the institution an order for his retention, made, after full examination of his state of mind, by the medical attendant or attendants, and not less than three of the Regents; and upon such order being made, it shall be the duty of the Secretary of the Regency to make out a certified copy of the declaration of the Trial Justice and physicians, and of the order of retention, and immediately send the same to the Judge of Probate of the County wherein such lunatic, idiot or epileptic shall reside, who shall thereupon make such order in relation to the custody of the estate of the said subject as would have been made had the proceedings been under a writ *de lunatico inquirendo.*

Certain inmates not to be retained without examination, &c
1827, VI, 382, § 1.

SEC. 9. Transient paupers, lunatics, idiots or epileptics, sent to the Asylum by virtue of the existing laws, shall be supported at the expense of the State, and the Regents are hereby authorized to draw from the Treasury for every such lunatic, one hundred and thirty-five dollars per annum. And it shall be the duty of the Regents to report, specially, to every Legislature, the whole number of this class of lunatics, idiots or epileptics, while they remain a charge upon the public Treasury.

Transient pauper lunatics to be received.
Ib; 1858, XIII, 742 § 1; 1871, XIV, 672, § 1.

Appropriation for support.

SEC. 10 No subject shall be admitted into the institution until one-half year's expense of maintenance and medical attendance there shall be paid to the Treasurer of the Regency; and a bond and good security shall be given to pay the said expenses half yearly, in advance, so long as the subject remains in the institution, and to pay all funeral charges in case of his death; but such bond shall not be required of the County Commissioners sending a pauper subject to the institution: *Provided*, That the Regents shall not be required to exact half yearly advances for the admission into the Asylum of such subjects as may be deemed curable, and likely to be speedily discharged, but only such advances as they may deem the nature of the case to require. In case the half yearly

Terms of admission.
1827, VI, 323, § 1.

Advances not to be exacted in certain cases.
1829, VI, 382, § 3.

Bond to be sued if not paid.

advances are not paid, the bond shall be immediately put in suit, and no imparlance thereto shall be allowed.

Discharge of lunatics, &c.
1827, VI, 323 § 3

SEC. 11. Whenever any lunatic or epileptic shall have recovered, it shall be the duty of the Regents to discharge him or her from the Asylum.

Persons employed may be removed.
Ib., § 2.

SEC. 12. It shall be the duty of the Regents to remove from office, and cause to be indicted, any person employed in the said institution who shall assault any idiot, lunatic or epileptic, or use towards any such idiot, lunatic or epileptic any other or greater violence than may be necessary for his or her restraint, government or cure.

Regents to report to the Legislature.
Ib., § 4.

SEC. 13. The Regents shall report annually to the Legislature the state and condition of the institution, fully and particularly; and they shall also annually report to the Comptroller General the amount of income of said institution, and the amount of expenditures, and the items thereof.

Lot vested in Regents of Asylum.
1822, VI, 185.

SEC. 14. That the lot upon which the Lunatic Asylum stands, containing four acres, butting and bounding on Upper Boundary, Bull, Pickens and Sumter streets, be vested in the Board of Regents of said Asylum, and their successors in office, for the uses and purposes of the Asylum.

May close up certain streets.
1848, XI, 520, § 2; 1855, XII, 478, § 30; 1856, XII, 507, § 16.

SEC. 15. That the Board of Regents of the Lunatic Asylum are authorized to close up and use, for the purpose of said Asylum, so much of Pickens street, in the city of Columbia, as lies between Lumber and Upper streets, of said city, to retain such portion of Upper street as they have already enclosed, and also to close that part of Upper street, in the plan of the said city, lying between Henderson and Barnwell streets and adjacent to the Asylum grounds.

CHAPTER LXX.

OF VAGRANTS.

SEC.
1. Who to be deemed vagrants.
2. Trial Justices to inquire into cases of vagrancy.
3. To examine accused; if he is liable as a vagrant, must give bond, &c.; if bond not given, vagrant to be committed to jail, and copy of proceedings transmitted to Clerk of Court.
4. Keeper of bawdy or gambling house within ten miles of South Carolina University to be deemed a vagrant, and to give bond, &c.
5. Penalty for violating bond.
6. Duties of Trial Justices under Sections 4 and 5. Sheriff and Constable to execute warrant.
7. Costs on conviction.
8. Offender may be sentenced to hard labor.
9. Penalty for failure or neglect of Trial Justices.
10. Punishment of malicious informers.

Who to be deemed vagrants.
1787, V, 11, § 1; 1839, XI, 24, § 13.

SECTION 1. That all persons wandering from place to place without any known residence, or residing in any city, County or town, who have no visible or known means of gaining a fair, honest and reputable livelihood; all suspicious persons, going about the country swapping and bar-

tering horses, (without producing a certificate of his or their good character, signed by a Trial Justice of the County from which such person last came); likewise all persons who acquire a livelihood by gambling or horse racing, without any other visible means of gaining a livelihood; all keepers of gaming tables, faro banks, or other banks whatsoever used for gaming, known under any other denomination; also, all persons who lead idle and disorderly lives; all who knowingly harbor horse thieves and felons, and those who are known to be of that character and description; likewise all persons (not following some handicraft trade or profession, or not having some known or visible means of livelihood,) who shall be able to work, and occupying or being in possession of some piece of land, shall not cultivate such a quantity thereof as shall be deemed by the Trial Justice to be necessary for the maintenance of himself and his family; also, all persons representing publicly for gain or reward, without being duly licensed, any play, comedy, tragedy, interlude, or farce, or other entertainment of the stage, or any part thereof; all fortune tellers for fee or reward; and all sturdy beggars, are, and shall be, deemed vagrants, and liable to the penalties of this Chapter.

Trial Justices to inquire into cases of vagrancy.
1839, XI, 24, § 13; 1789, V, 41, § 2.

SEC. 2. Upon the oath of any credible person, that another is, to the best of his or her knowledge or belief, a vagrant, and liable to the penalties prescribed by law, any Trial Justice shall issue his warrant forthwith, to any Constable, requiring the accused to be brought before him; and, upon the arrest of the person so charged, the said Trial Justice shall inquire into the truth of such information.

To examine accused.
Ib., 42, § 4; 1839, XI, 24, § 13

If liable as vagrant, shall be required to give bond, &c.

If bond not given, vagrant to be committed and copy of proceedings transmitted to Clerk of Court.

SEC. 3. He shall proceed to examine how the accused gains a livelihood and maintains his or her family, (if he or she has any,) and if such person shall be adjudged liable to the penalties prescribed by law against such as are deemed vagrants, then, if the accused shall pay all lawful costs and charges of such proceeding, and give bond with sufficient security, to be approved by the Trial Justice, for his or her good behavior for twelve months ensuing, such person shall be discharged; but, on refusal or inability to comply therewith, the Trial Justice may commit such person to jail, and shall transmit a copy of the proceedings, as soon as may be, to the Clerk of the Court of Common Pleas and General Sessions for the County, containing the names of the informer and accused, and the Trial Justice, and jury, (if any,) together with those of the witnesses and the evidence they gave, which copy shall be filed in the office of the Clerk, for the use of the Court of General Sessions.

Keeper of bawdy house, &c., within ten miles of S. C. University to be deemed a vagrant, and to give bond, &c.
1836, VI, 554, § 1.

SEC. 4. If any person shall, within ten miles of the University of South Carolina, keep any house as a bawdy house, or house of common prostitution, or shall reside in or be an inmate of such house, or shall be supported or gain a maintenance by common prostitution, or shall keep or use any house as a house for gaming, or shall aid or assist in keeping such house, or shall keep any faro bank, or other device for gaming, every such person, as aforesaid, shall be proceeded against as a vagrant; and, upon conviction of any of the offences above enumerated, shall be

deemed a vagrant, and either enter into recognizance to the State, in the sum of two thousand dollars, with two good and sufficient sureties, (who shall be freeholders,) in the sum of one thousand dollars each, to be taken and approved before the Clerk of the Court of Richland County, conditioned not to offend against the provisions of this Section for the space of three years, or, in default thereof, shall be forthwith committed to the jail of the County, to be dealt with as a vagrant.

Penalty for violating bond.
Ib., § 2.

SEC. 5. If any person, after having given bond as aforesaid, shall again, within the limits before prescribed, keep any bawdy house, house of common prostitution, or house for gaming, either with cards or by any other game or device, such person shall be subject to indictment therefor, and, on conviction, shall be fined, for every day such offence is proved to have been committed, not exceeding one thousand dollars, and be imprisoned not exceeding twelve months.

Duties of Trial Justices under Sections 4 and 5.
Ib., § 3.
1 McM., 501.

SEC. 6. Any Trial Justice is authorized and required, upon the written requisition of the Faculty of the University of South Carolina, through their presiding officer, or of the Solicitor of the Circuit wherein the same is situated, suggesting the name of any offender against the provisions of Sections 4 and 5 of this Chapter, and any witnesses necessary to the investigation, forthwith to issue warrants to bring before him such offender and witnesses; and if, upon investigation before such Trial Justice, sufficient evidence shall appear to satisfy him of the truth of the charge, such offender shall be dealt with as hereinbefore directed; and it shall be the duty of every Sheriff and Constable to whom any such process may be directed to execute the same with all practicable dispatch, according to its mandate; and he shall, when required, return, on oath, his proceedings thereon.

Sheriff and Constable to execute warrants.

Costs on conviction.
Ib., 555, § 4.
1 McM., 506.

SEC. 7. Upon conviction, in case of indictment for any offence specified in Sections 4 and 5 of this Chapter, the tax costs of the Solicitor, recoverable from the defendant, shall be three hundred dollars, to be used by him as a fund for defraying the expenses incurred in enforcing the provisions of the said Sections.

Offender may be sentenced to hard labor.
1787, V, 43, § 6.

SEC. 8. In all cases where it shall be deemed practicable and expedient by the Court of General Sessions to condemn the offender to hard labor, then such offender shall be sentenced to hard labor for a term not exceeding one year.

Penalty for failure or neglect of Trial Justices.
Ib., § 8.

SEC. 9. If any Trial Justice shall fail or neglect to execute any of the duties herein set forth and prescribed, he shall be liable to pay a penalty of fifty dollars; and any Constable neglecting or failing in his duty aforesaid, shall be liable to pay twenty-five dollars, to be recovered by information before any Court of competent jurisdiction, one moiety to go to the informer, and the other to the use of the County.

Punishment of malicious informers.
Ib., § 9.

SEC. 10. If any informer shall be convicted before the Circuit Court, of having preferred his complaint through malevolence or spite, without any just grounds of accusation, he shall be adjudged to pay a fine of twenty-five dollars to the party injured, besides being liable to an action for damages. And if any person shall wantonly prosecute any Trial Justice or Constable for a neglect of duty, and shall fail in his proof of such neglect, he shall pay a fine of twenty-five dollars, to be recovered as aforesaid.

CHAPTER LXXI.

OF ESTRAYS.

SEC.
1. To be advertised and taken before a Trial Justice for appraisement.
2. Appraisement, certificate of, to be filed.
3. To be advertised by Trial Justice.
4. To be sold if not claimed; note of purchaser may be sued on by County Commissioners.
5. Pay for advertisement.
6. Owner of estray may claim it after sale and before maturity of note; disposition of purchase money.
7. Amount, &c., of sale, to be recorded; record open to inspection.
8. Compensation for keeping estray; proviso.
9. Unlawful for stone-horse to run at large; fee for gelding.
10. Trial Justice and Clerk to perform duties under this Chapter; penalty.
11. Penalty on takers of estrays for not obeying the law.

To be advertised and taken before Trial Justices for appraisement.
1803, V, 465, § 1.

SECTION 1. That if any estray shall be found wandering in or about the plantation of any freeholder or settled resident, he, she or they are hereby authorized and empowered to take the same into possession; and shall advertise the same within three days thereafter, in three or more public places in the said County wherein the said person or persons, so taking up the said estray, may reside; and the said person or persons shall, within ten days after advertising as aforesaid, take such estray to the nearest Trial Justice, excepting hogs, sheep, neat cattle or goats, which shall be appraised at the place taken up.

Appraisement; certificate of to be filed.
Ib.; 1839, XI, 30, § 22.

SEC. 2. Every Trial Justice, before whom an estray shall be returned, shall cause the same to be appraised, on oath, by three proper persons in the vicinity, who shall certify their appraisement under their hands, together with an accurate description of the color, size, age, brands and marks of said estray, whereupon the said Trial Justice shall enter the said certificate at large in his book; and shall, within ten days thereafter, send a duplicate of the said certificate to the Clerk of the Court of the County in which the said estray shall be taken up.

To be advertised by Trial Justice.
Ib.

SEC. 3. At the same time such Trial Justice shall cause the estray, if other than a horse or mule, to be advertised at three or more public places in the County, one of which shall be on the Court House door, for two months, together with a notice where said estray is to be found; and, if a horse or mule, by advertising at the same places and in the nearest gazette once a month for four months.

To be sold; note of purchaser may be sued on by County Commissioners
Ib.

SEC. 4. Where no owner shall appear and prove his property within the time directed for advertising, it shall be lawful for such Trial Justice and he shall cause the same to be publicly advertised for ten days, and sold on a credit of six months, except the costs to be paid in cash; and the purchaser shall give his note, with approved security, to the Trial Justice, in the name of the County Commissioners in the County wherein such estray shall be taken up; which note the said Trial Justice shall deliver immediately to the said County Commissioners for the County in which such estray shall be taken up, who shall have power, in default of payment, to sue for and recover the same.

Pay for advertisement.
1803, V, 465, § 3.

SEC. 5. For printing the said advertisement, the printer shall be entitled to one dollar, which shall be paid by the owner of such estrays, or taken out of the sales of the same.

Owner may claim after sale and before maturity of note; disposition of purchase money.
Ib., 2; 1789, V, 137, § 3.

SEC. 6. If any person shall put in a just and lawful claim to such estray at any time after the sale and before the note becomes due, the County Commissioners are hereby directed to give up the note to the claimant, on his paying the customary fees; but if no such owner shall appear, the Commissioners shall cause the amount of the same to be collected and appropriated to the repairs of the high roads and bridges in the highway district where such estray shall be taken up. And in case any part of the moneys aforesaid remains unappropriated, in the hands of the Commissioners, they shall appropriate the same to the use of the poor.

Amount, &c., of sale to be recorded; record open to inspection.
1850, XI, 111, § 26.

SEC. 7. That the Clerk of the Court shall file the duplicate certificate of the appraisers and Trial Justice in all instances of estrays taken up, where the same shall be returned, and also the certificate of such Trial Justice, of the amount and disposition of the funds arising therefrom; the same being entered in the book of estrays, which shall always be subject to the inspection of any person desiring to examine the same free of charge.

Compensation for keeping.

Proviso.
1789, V, 138, § 4.
1803, V, 466, § 5.

SEC. 8. As a compensation for keeping and maintaining estrays until the time of sale, it shall and may be lawful for the taker up, at his option, either to put them to moderate labor or use, if a horse, mare or gelding, ass or mule, or to demand and receive therefor such a reasonable allowance as the Court or Trial Justice shall judge adequate: *Provided, always*, That when any estray shall have been put to labor or use, the taker up shall be obliged to produce it at the time of sale, unavoidable accidents excepted, in as good order and condition as it was in when appraised; and shall be liable to an action for damages by the owner of any such estray, for any abuse thereof, if the said owner shall claim the said estray within the time prescribed in this Chapter.

Unlawful for stone-horse to run at large; fee for gelding
1789, V, 139, § 6.

SEC. 9. If any person shall willfully suffer any stone-horse, above the age of twenty months, to run at large in the woods, it shall be lawful for any person to catch and geld such horse, and he shall have a right to recover from the owner thereof two dollars and fifty cents for so doing; any law to the contrary notwithstanding.

SEC. 10. That if any Trial Justice or Clerk of Court, or person taking up any estray, shall refuse or neglect to perform the duties prescribed by this Chapter, each and every of them shall forfeit and pay the sum of twenty-five dollars, to be recovered and applied to the use of any person who shall inform and sue for the same, and shall moreover be liable in damages to the party aggrieved.

Trial Justice and Clerk to perform duties under this Chapter: penalty.
Ib., § 7.

SEC. 11. That each and every person who shall take into his or her possession, any estray, and neglect to pursue the directions of this Chapter, or shall convert to his or her use any such estray, shall be liable to a fine of twenty dollars, to be recovered, upon information, in any Court of record having jurisdiction of the same, in this State, to be given to the informer; and shall also be liable to an action by the owner of any such estray, for damages.

Penalty for not pursuing the provisions of this Chapter
1863, V, 466, § 6.

CHAPTER LXXII.

OF DRIFTED LUMBER AND TIMBER.

SEC. 1. Penalties for taking up and selling drifted lumber and timber without accounting for same.

SECTION 1. That no person shall take up and sell any drifted lumber or timber, not the property of such person, without accounting for the same; and if any person shall take up and sell any drifted lumber or timber, without paying the proceeds to the owner on application, after deducting expenses, such person shall be liable to indictment as for a misdemeanor, and fined and imprisoned at the discretion of the Court.

Penalties for taking up and selling drifted lumber.
1853, XII, 294, § 4.

CHAPTER LXXIII.

OF WRECKS AND SHIPWRECKED GOODS.

SEC.
1. Salvage allowed for saving ships, goods, &c.; amount to be fixed in what manner.
2. Trial Justices may employ aid to save vessels in distress; to adjust salvage, &c.; pay of Trial Justices.
3. Unclaimed stranded goods to be taken into custody and delivered to County Treasurer, who shall advertise the same, &c.
4. Entry into stranded vessels may be repelled by force; penalty for carrying away saved goods.
5. Felony to rob vessels that are in distress or wrecked.
6. Penalty when goods are of small value.
7. Trial Justices to issue warrants for stolen goods; penalty for retaining.
8. Salvage allowed informer.
9. Goods unlawfully taken from vessels may be seized and delivered to owner; reward allowed; penalty for offering for sale.
10. Persons assaulting others saving vessels may be punished by Court.

SECTION 1. That in case any person or persons not employed by the master, mariners, or owners, or other persons lawfully authorized, in the salvage of any ship or vessel, or the cargo or provision thereof, shall, in the

Salvage allowed for saving ships, goods, &c., amount to be fixed, in what manner.
1785, IV, 551, 5.

absence of the master or mariners or owners, save any such ship, vessel, goods or effects, and cause the same to be carried, for the benefit of the owners, into any port, inlet or place of safety within this State, immediately giving notice thereof to a Trial Justice, such person or persons shall be entitled to a reasonable salvage for such services, to be paid by the master or owners of such vessel or goods; and in case of disagreement about the quantum of such salvage, the same to be adjusted by not less than two neighboring Trial Justices, nor more than three.

Trial Justices may employ aid to save vessels in distress; to adjust salvage, &c.

Pay of Trial Justices.
Ib., 552, 6.

SEC. 2. That when any ship or vessel, or effects, shall be stranded on any part of the coasts of this State, or upon any application of the commander of any ship or vessel stranded, to any Trial Justice, such Trial Justice shall forthwith summon to his aid one other Trial Justice, and such Trial Justices are hereby required and empowered to give aid, and to employ proper persons for the saving such vessel in distress, or such vessels, goods, or effects, as shall be stranded or cast away, and also to examine persons upon oath, touching or concerning the same, or the salvage thereof, and to adjust the quantum of such salvage, and distribute the same among the persons concerned in the salvage, in case of disagreement among the parties, or the said persons; and every such Trial Justice, attending and acting for the preservation of any such vessel or goods, shall be paid three dollars per day for his trouble, out of the vessel, goods, or effects, saved by their care or discretion.

Unclaimed stranded goods to be taken into custody and delivered to County Treasurer, who shall advertise same, &c.
Ib., § 8.

SEC. 3. If any ship or vessel, goods or effects, shall be stranded, or cast on shore, and no person appears to claim the goods which shall be so saved; two or more neighboring Trial Justices shall take the same into their custody or possession, and, as soon as may be, give notice and a schedule in writing of the different articles, (such Justices keeping a copy thereof,) to the County Treasurer, and deliver safely all such goods and effects to the said Treasurer or his order, who shall be responsible for the same, and who shall give public notice thereof in the gazettes of this State, for at least eight months, if no claim should be made; and if such goods be not claimed within twelve months after such delivery to the County Treasurer as aforesaid, they are to be publicly sold, (or, if the goods be perishable, to be sold forthwith,) and, after deducting reasonable charges, the residue shall be lodged in the County Treasury, for the use of the State, subject to the claim of the proprietor, his agent or attorney.

Entry into stranded vessel may be repelled by force. Penalty for carrying away saved goods.
Ib., 9.

SEC. 4. That if any person or persons not empowered, shall enter, or try to enter, forcibly on board any ship or vessel stranded or cast away, or in distress, or molest in the preservation thereof, he or they may be repelled by force. And if any person or persons shall carry away, or secrete, any goods and effects saved as aforesaid, such person or persons shall forfeit and pay treble the value, to be recovered by the owner of such goods, or his agent, in any Court of competent jurisdiction in this State.

Felony to rob vessels in distress or wrecked.

SEC. 5. If any person or persons shall plunder, steal, take away, or destroy, any goods or merchandise, or other effects, from any ship or vessel belonging to the Prince or public, or to any private subject, of any foreign nation in alliance or neutrality with the United States, or belonging to any citizen of this or any other of the United States, which shall be in distress, or which shall be wrecked, lost, stranded, or cast on shore in any part of this State, whether any living creature be on board such vessel or not,) or shall make a hole or holes in the bottom of any ship or vessel in distress, or shall take away a pump, or willfully and unlawfully do any mischief tending to the loss of such ship or vessel, or shall take away any of the furniture, tackle, apparel, provision, or part of such ship or vessel, such person or persons so offending shall be deemed guilty of felony.

Penalty.
Ib., 550, § 1.

When goods are of small value.
Ib., 551, § 2.

SEC. 6. When goods or effects of small value that may be stranded, shall be stolen, without circumstances of outrage or violence, the offender being convicted thereof, shall forfeit and pay treble the value, to be ascertained by two Trial Justices.

Trial Justice to issue search warrant for stolen goods

SEC. 7. It shall and may be lawful for any Trial Justice, on information, upon oath, of any part of a cargo or effects of any vessel lost or stranded on or near the seacoasts, being unlawfully conveyed or concealed, or of some cause or reasonable suspicion thereof, to issue his warrant for searching for such goods or effects, as in cases of stolen goods; and, if the same be found in any house or other place, or in the possession of any person not legally authorized to have the same, and the person in whose possession the same shall be found shall not immediately, upon demand, deliver the same to the owner or person lawfully authorized to receive them, he or she shall forfeit and pay to the owner or owners of such goods, his or their agent or attorney, treble the value for such refusal.

Penalty for retaining.
Ib., § 3.

Salvage allowed informer.
Ib.

SEC. 8. Any person discovering where any such goods are wrongfully bought, sold, or concealed, so that the owner, his agent or attorney, shall regain them, shall be entitled to a reasonable salvage, not exceeding twenty-five per cent. on the value, to be adjusted by the next neighboring Trial Justice, who is hereby required to adjust the same.

Goods unlawfully taken from vessels may be seized, and delivered to owner

SEC. 9. If any person or persons shall offer or expose to sale any goods or effects whatsoever belonging to any ship or vessel lost, stranded, or cast on shore, as aforesaid, and unlawfully taken away, or reasonably suspected to have been, then and in every such case it shall be lawful for the person or persons to whom the same shall be so offered for sale, or any Trial Justice, to stop and seize the said goods and effects; and if the person or persons who shall have offered the said goods and effects to sale, or some other person in his or her behalf, shall not, within ten days next after such seizure, make out to the satisfaction of such Trial Justice that they became honestly possessed of them, then the said goods and effects shall, by order of the said Trial Justice, be forthwith delivered over to and for the use of the owner thereof, on proof of his claim,

Reward allowed.

Penalty for offering for sale.

Ib., § 4.

and the payment of a reasonable reward, not exceeding five per cent. on the value, for such seizure, (to be ascertained by the said Trial Justice,) to the person who shall seize the same. And he, she or they who offered such goods and effects for sale, as aforesaid, shall forfeit and pay to the owner or owners twice the value of such goods, to be recovered according to law.

Persons assaulting others saving vessels may be punished by Court.

Ib., 552, § 7.

SEC. 10. If any Trial Justice or other person acting in the preservation or salvage of any vessel, goods or effects, shall be assaulted, beaten, or wounded, every person or persons so assaulting, beating, or interrupting, shall, upon conviction thereof before the Court of Sessions, receive such punishment as the said Court, in their discretion, shall award.

CHAPTER LXXIV.

OF THE OBSERVANCE OF THE LORD'S DAY.

SEC.
1. Penalty for working on Sunday.
2. Penalty for selling goods on Sunday.
3. No sports or pastimes allowed on Sunday.
4. Persons to attend meeting; penalty for neglect.
5. No person to travel on Sunday.
6. No person to use to entertain guests on Sunday, except lodgers and strangers.
7. No servant to work on Sunday.
8. Penalty for offences against this Chapter.
9. Disposition of forfeitures and penalties.
10. Dressing meat and selling milk not prohibited.
11. Offenders to be presented within ten days.

Penalty for working on Sunday.

1691, II, 99; 1712, II, 306, 2. 2 Bay, 232.

SECTION 1. That no tradesman, artificer, workman, laborer, or other person whatsoever, shall do or exercise any worldly labor, business or work of their ordinary callings upon the Lord's Day, (commonly called the Sabbath,) or any part thereof (works of necessity or charity only excepted); and every person being of the age of fifteen years or upwards, offending in the premises shall, for every such offence, forfeit the sum of one dollar.

For selling goods.

Ib., 396, § 3. 2 Strob., 508.

SEC. 2. No person or persons whatsoever shall publicly cry, show forth, or expose to sale any wares, merchandise, fruit, herbs, goods or chattels whatsoever, upon the Lord's Day, or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried, or showed forth, or exposed to sale.

No sports or pastimes allowed on Sunday.

Ib., 397, § 5.

SEC. 3. No public sports or pastimes, as bear-baiting, bull-baiting, football playing, horse-racing, interludes or common plays, or other games, exercises, sports or pastimes whatsoever, shall be used on the Lord's Day by any person or persons whatsoever, and every person or persons offending in any of the premises shall forfeit for every offence the sum of one dollar.

Persons to attend meeting.

SEC. 4. All and every person and persons whatsoever, shall, on every Lord's Day, apply themselves to the observation of the same, by exercising themselves thereon in the duties of piety and true religion, publicly and privately; and, having no reasonable or lawful excuse, on every Lord's Day shall resort to some meeting or assembly of religious worship, tolerated and allowed by the laws of this State, and shall there abide orderly and soberly during the time of prayer and preaching, on pain and forfeiture, for every neglect, of the sum of one dollar.

Penalty for neglect.
Ib., § 1.

No person to travel on Sunday.
Ib., 397, § 4.

SEC. 5. No drover, wagoner, butcher, higgler, or any of their servants, or any other traveler or person whatsoever, shall travel on the Lord's Day by land, neither shall any person or persons whatsoever travel on the Lord's Day by water, in any barge, lighter, wherry, boat, canoe or periauger, excepting it be to go to the place of religious worship and to return again, or to visit or relieve any sick person, or unless the person or persons were belated the night before, and then to travel no further than to some convenient inn or place of shelter for that day, or upon some extraordinary occasion, for which he, she or they shall be allowed to travel under the hand of some Trial Justice.

No public house to entertain guests on Sunday, except lodgers and strangers
Ib., § 6.

SEC. 6. No vintner, innholder, or other person keeping any public house of entertainment, shall entertain or suffer any person or persons whatsoever, excepting strangers or lodgers in such houses, to abide or remain in their houses or out-houses, yards, or orchards or fields, drinking or idly spending their time on the Lord's Day, upon the pains and penalties of one dollar for every person offending, payable by them, respectively, that shall be found so drinking or abiding in any such public house or dependencies, and the like sum of one dollar to be paid by the keeper of such house for every person entertained by him.

No servant to work on Sunday.
Ib., § 8.

SEC. 7. If any master, mistress or overseer shall command, and cause and encourage any servant, to work on the Lord's Day, he, she or they shall forfeit for every such offence the sum of one dollar.

Penalty for offences against this Chapter.
Ib., § 9.

SEC. 8. For the better execution of all and every the foregoing provisions, every Trial Justice within his County shall have power and authority to summon before him any person or persons whatsoever, who shall offend in any of the particulars before mentioned, and upon his own view, or confession of the party, or proof of any one or more witnesses, upon oath, the said Trial Justice shall give a warrant under his seal, to seize the said goods cried, showed forth, or put to sale as aforesaid, and to sell the same; and as to the other penalties and forfeitures, to impose the fine and penalty for the same, and to levy the said forfeitures and penalties by way of distress and sale of the goods of every such offender, returning the overplus, if any be, after charges allowed for the distress and sale.

Disposition of forfeitures and penalties.
Ib., § 9.

SEC. 9. All and singular the forfeitures or penalties aforesaid, shall be employed and converted to the use of the poor of the County where the said offences shall be committed, and to be delivered into the hands of the County Commissioners for that end, saving only that it shall and may be lawful to and for any such Trial Justice, out of the said forfeitures or penalties, to reward any person or persons that shall inform of any offence against this Chapter, according to his or their directions, so as that such reward exceed not the third part of the forfeitures or penalties.

Dressing meat and selling milk not prohibited.
Ib., 398, § 10.

SEC. 10. Nothing in this Chapter contained shall extend to the prohibiting of dressing of meat in families, or dressing or selling of meat in inns, victualling houses or other public houses, for such as cannot be otherwise provided; nor to the buying and selling of milk before nine of the clock in the morning, or after four of the clock in the afternoon.

Offence to be presented within ten days.
Ib., § 11.

SEC. 11. No person or persons shall be prosecuted or molested for any offence before mentioned in this Chapter, unless he or they be prosecuted for the same within ten days after the offence committed.

CHAPTER LXXV.

OF IMMIGRANTS AND SEAMEN.

SEC.
1. Immigrants' hotel or boarding house keepers to be licensed.
2. Hotels not licensed not to solicit boarders, &c.
3. City Council of Charleston may grant license.
4. City Council may revoke license.
5. Fees for license.
6. City Council to furnish badges to licensee.
7. Agents must wear badges.
8. No other person to wear badge.
9. None but pilot or public officer to board vessels.
10. Owners, &c., of vessels not to permit unauthorized persons to board.
11. Hotel keepers to leave vessels when ordered.
12. Offenders guilty of misdemeanor; punishment.
13. Meaning of word "vessel."
14. No tavern keeper to harbor mariner more than one hour; penalty; not to extend to mariners legally discharged.
15. Harboring deserted seamen and enticing them to desert.
16. Trial Justice may order search for deserted seamen.
17. Last two Sections extend to all shipping agreements.
18. Seamen's debts.
19. If sick may be licensed by Trial Justice to receive credit.
20. Seamen's goods.
21. Articles of ship admissible in evidence.
22. A misdemeanor to impress seamen.
23. In trials under this Chapter, evidence of master of vessel may be taken *de bene esse.*
24. No traverse or continuance allowed without cause shown.
25. Masters of vessels liable for maimed seamen brought into port.
26. If unable to be moved, master to pay them wages in full.
27. Masters lodging seamen in jail for desertion to give bond.
28. Procurers of seamen not to board vessels without permission of master.
29. Masters may arrest offenders.
30. Burden of proof.

Immigrants', &c., hotel or boarding house keeper to be licensed.
1855, XIII, 171, § 4.

SECTION 1. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' or immigrants' boarding house, or sailors' or immigrants' hotel, in the city of Charleston, without having a license from the City Council thereof.

SEC. 2. It shall not be lawful for any person, not having the license in this Chapter provided, or not being the regular agent, runner or employee of a person having such license, to invite, ask or solicit, in the city or harbor of Charleston, the boarding or lodging of any of the crew employed on any vessel, or of any immigrant arriving in the said city of Charleston.

Hotels not licensed not to solicit boarders, &c. Ib., § 5

SEC. 3. The City Council shall take the application of any person applying for a license to keep a sailors' or immigrants' boarding house, or sailors' or immigrants' hotel, in the city of Charleston, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall be good for one year, unless sooner revoked by said City Council, to keep a sailors' or immigrants' boarding house in the city of Charleston, and to invite and solicit boarders for the same.

City Council of Charleston may grant license. Ib., § 6.

SEC. 4. The City Council may, upon satisfactory evidence of the disorderly character of any sailors' or immigrants' hotel or boarding house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit or misrepresentation, in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners or employees, revoke the license for keeping such house.

City Council may revoke license. Ib., § 7.

SEC. 5. Every person receiving the license hereinbefore provided for shall pay to the City Council aforesaid the sum of twenty dollars.

Fee for license. Ib., 472, § 8.

SEC. 6. The said City Council shall furnish to each sailors' or immigrants' hotel or boarding house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding house keeper, and the number and street of his hotel or boarding house; and which said badges or shields shall be surrendered to said City Council upon the revocation by them, or expiration of, any license granted by them, as herein provided.

City Council to furnish badges of licenses. Ib., § 9.

SEC. 7. Every sailors' or immigrants' hotel or boarding house keeper, and every agent, runner or employee of such hotel or boarding house keeper, when boarding any vessel in the harbor of Charleston, or when inviting or soliciting the boarding or lodging of any seaman, sailor or person employed on any vessel, or of any immigrant, shall wear, conspicuously displayed, the shield or badge referred to in the foregoing Section.

Agents shall wear badges. Ib., § 10.

SEC. 8. It shall not be lawful for any person, except those named in the preceding Section, to have, wear, exhibit or display any such shield or badge to any of the crew employed on any vessel, or to any immigrant so arriving in the city of Charleston, with the intent to invite, ask or solicit the boarding or lodging of such immigrant or of any of the crew employed on any vessel being in the harbor of Charleston.

No other person shall wear badge. Ib., § 11.

None but pilots or public officer to board vessels.
Ib., 470, § 1.

SEC. 9. That it shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of Charleston, before such vessel shall have been made fast to the wharf, without first obtaining leave from the master or person having charge of such vessel, or from her owners or agents.

Owners, &c., of vessels not to permit unauthorized persons to board.
Ib, 471, § 2.

SEC. 10. It shall not be lawful for any owner, agent, master or other person having charge of any vessel arriving or being in the port of Charleston, to permit or authorize any sailors' hotel or boarding house keeper, not licensed as herein provided, or any agent, runner or employee of any sailors' or immigrants' hotel or boarding house, to board, or attempt to board, any vessel arriving in, or lying, or being in the harbor or port of Charleston, before such vessel shall have been made fast to the wharf, or anchored, with intent to invite, ask or solicit the boarding of any of the crew employed on such vessel.

Hotel keepers to leave vessels when ordered.
Ib., § 3.

SEC. 11. It shall not be lawful for any sailors' or immigrants' hotel or boarding house keeper, or the employee of any sailors' or immigrants' hotel or boarding house keeper, having boarded any vessel made fast to any wharf in the port of Charleston, to neglect or refuse to leave said vessel, after having been ordered so to do by the master or person having charge of such vessel.

Punishment of offenders guilty of misdemeanor.
Ib, 472, § 12.

SEC. 12. Whoever shall offend against any or either of the provisions contained in Sections 1, 2, 7, 8, 9, 10 and 11 of this Chapter, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment for a term not exceeding one year, and not less than thirty days, or by a fine not exceeding two hundred and fifty dollars, and not less than one hundred dollars, or by both such fine and imprisonment.

Meaning of word "vessel"
Ib, § 13.

SEC. 13. The word "vessel," as used in the preceding Sections, shall include vessels propelled by steam.

No tavern keeper, &c., to harbor mariner more than one hour.
1751, III, 755, § 1.

Penalty $10
Not to extend to mariners legally discharged.

SEC. 14. That it shall not be lawful for any tavern-keeper, punch-house-keeper or victualler, within this State, to harbor, entertain or employ any seaman or mariner, exceeding one hour in four and twenty, without an order or direction in writing for so doing under the hand of the master or commander of the ship or vessel to which such seaman or mariner shall belong, under pain of forfeiting the sum of ten dollars for every such offence, to be recovered by indictment in any Court of competent jurisdiction, and applied one-half to the informer and the other half for the use of the State: *Provided, always, nevertheless,* That nothing herein contained shall extend or be construed to extend to such seaman or mariner as shall be legally discharged from any ship or vessel.

SEC. 15. Any person who shall be convicted of harboring deserting seamen, or of inveigling or procuring them to desert any service for which they have engaged, or disregard any articles into which they have entered, shall be held guilty of a misdemeanor, and, upon trial and conviction, shall be punished by fine and imprisonment at the discretion of the Judge, not to exceed three hundred dollars' fine and three months' imprisonment; and, upon a second conviction, the person so offending, if the keeper of a public or lodging house for seamen, in addition to the penalty before provided, shall forfeit his or her license.

Harboring deserted seamen and enticing them to desert; penalty.
1695, II, 119, § 2; 1836, VI, 557, § 1.

SEC. 16. In case any such seaman, or any boy apprenticed on board any ship or vessel, shall be harbored, secreted or detained, it shall be lawful for any Trial Justice, upon complaint, on oath, made by the master of the said ship, or on his behalf, to inquire into the matter, and if he shall see fit, by warrant under his hand and seal, to cause search to be made into any place wherein the said seaman or apprentice may be harbored or secreted, and to cause such seaman or apprentice to be restored to the master of the said ship.

Trial Justice may order search for deserted seamen
1836, VI, 557, § 1

SEC. 17. The provisions of the two preceding Sections shall extend to every agreement to proceed or continue on a voyage, made in this State or elsewhere, by a seaman, and whether in contemplation of a voyage to be commenced in this State or elsewhere: *Provided*, That the said agreement, at the time when any such seaman may be harbored or secreted contrary to the provisions of the said Sections, shall not have been fully executed and determined, but shall be of force and binding on such seaman, according to the laws of this State, or of the country where the same was entered into, or to which the ship or vessel in which such voyage was to be made may belong.

Last two Sections extend to all shipping agreements.
1837, VI, 558, § 1.

SEC. 18. It shall not be lawful for any keeper of a public or lodging house for seamen, at any time, to recover from any seaman any debt exceeding one dollar; and no debt exceeding said sum, incurred by any seaman to any other person, shall be recoverable after he has signed an agreement to proceed on a voyage, until such voyage shall have been concluded.

Seamen's debts.
1836, VI, 557, § 2.

SEC. 19. If any mariners or seamen belonging to any vessel or vessels shall be visited with sickness, then it shall and may be lawful for any one Trial Justice, by an order under his hand, to license the master or mistress of any public house or ordinary, or any private house, to give him or them, being sick as aforesaid, credit for any sum or sums of money as the said master or mistress of any house is willing to trust for their necessary relief.

If sick, may be licensed by Trial Justice to receive credit.
1695, II, 119, § 1; 1712, II, 598, § 1.

SEC. 20. It shall not be lawful for any keeper of a public or lodging house for seamen to withhold or detain any chest, bed or bedding, clothes, tools, or other effects, of any seaman, for any debt alleged to have been contracted by such seaman; and in case any such chest, bed, bedding, clothes, tools, or other effects, as aforesaid, shall be

Seamen's goods.
1836, VI, 557, § 3

withheld or detained, contrary to this Chapter, it shall be lawful for any Trial Justice, upon complaint, upon oath, to be made by any such seaman, or on his behalf, to inquire into the matter, and, if he shall see fit, by warrant under his hand and seal, to cause any such property or effects so withheld or detained, contrary to this Chapter, to be seized and delivered over to the seaman.

Articles of ship admissible evidence.
1837, 577, § 2; 1852, XII, 171, §§ 1, 2.

SEC. 21. On the prosecution or trial of any indictment under the provisions of Sections 14, 15 and 16 of this Chapter, a copy of the articles of the ship or vessel, authenticated by the affidavit of the Captain, sworn to before any Notary Public or Trial Justice of this State, shall be admissible in evidence, and shall be sufficient to establish the fact that any seaman whose name appears subscribed thereto, has signed the agreement contained in such articles, until the contrary be made to appear by proof.

A misdemeanor to impress seamen.
1855, XII, 402, § 1

SEC. 22. That any attempt, by fraud or force, to ship, against his will, any person, as a seaman, on board any vessel in any port in this State, is hereby declared a misdemeanor, to be punished by fine and imprisonment, at the discretion of the Court.

In trials under this Chapter evidence of master of vessel may be taken *de bene esse*.
1852, XII, 172, § 4; 1855, XII, 402, § 2.

SEC. 23. That when any prosecution shall be commenced against any person under the provisions of Section 22 of this Chapter, and, also, under the provisions of Sections 14, 15 and 16 of this Chapter, providing for the punishment of harboring seamen who have deserted, and it shall appear to the Trial Justice before whom the prosecution was commenced, that the testimony of any master of a vessel or other transient person will be important on such trial, such Trial Justice shall have authority, after five days' notice to the party accused, to summon such witness before some Judge of the Court of General Sessions, or the Recorder of the City Court of Charleston, to appear and give evidence in the said matter, when such witness shall be examined, with the right to the party accused to examine or cross-examine such witness, as in trials in open Court; and the Judge or Recorder shall certify and seal up such evidence, to be used on the trial of the cause, in the same manner as if the same had been given orally on such trial: *Provided*, That such testimony shall in no case be used unless it shall appear by the affidavit of the Trial Justice before whom such prosecution shall have been commenced, that such witness is not at the time of such trial within the jurisdiction of the State.

No traverse or continuance allowed without cause
1855, XII, 402, § 3.

SEC. 24. That defendants, in cases arising under Section 22 of this Chapter, and defendants in all cases arising under the several Sections in relation to harboring deserted seamen, shall be deprived of the right of traverse or continuance, without cause shown at the term of the Court where indictment is found, any law or usage to the contrary notwithstanding.

Master of vessels liable for maimed seamen brought into port.
1712, II, 596, § 12.

SEC. 25. That every master of any ship or vessel that shall bring any sick, lame or maimed seamen into this port, shall maintain and keep them here, and when they depart this port, shall carry them off, or give sufficient security to the overseers of the poor, for the maintenance and charge of the sick, as aforesaid; and every master, as aforesaid, that shall neglect or refuse the same, or any part thereof, shall forfeit the sum of two hundred and fifty dollars, for the use of the poor; and every person that shall entertain any such lame or maimed seaman, as aforesaid, without the knowledge and consent of the overseers of the poor, or any of them, shall keep and maintain him or them so entertained at their own proper costs and charges.

If unable to be moved, master to pay them wages in full.
Ib., 597, § 13.

SEC. 26. If the sick or lame, as aforesaid, shall not be in a condition to be carried off, without danger of their lives, of which the overseers of the poor, as aforesaid, or any two of them, are judges, then the master of the said vessel, and not otherwise, shall pay or cause to be paid into the hands of the overseers of the poor, towards the maintenance and support of such person as aforesaid, all the wages that shall be due to the said person and no more, anything herein contained to the contrary notwithstanding.

Masters lodging seamen in jail to give bond.
1808, V, 574.

SEC. 27. That all masters of vessels, and others, lodging seamen in the jails of this State, for desertion, shall, previously thereto, give bond, with security, to the Sheriff of the County, to be by him approved, in the sum of five hundred dollars, for every seaman so lodged in any gaol in this State, with a condition that he or they shall be bound to take away the said seaman or seamen from the jail, and pay the expenses thereof.

Procurers of seamen not to board vessels without permission of master.
1852, XII, 171, § 3.

SEC. 28. That it shall not be lawful for any broker, shipping master, or other person engaged in the business of procuring seamen for vessels, or furnishing them with such seamen, or making contracts for their services, to enter or attempt to go on board of any vessel lying at any port or in any waters within the jurisdiction of this State, except as herein provided, without having previously obtained the permission of the master or other person having the care, custody, and control of such vessel, and any such person so entering any vessel, as aforesaid, without such permission, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by fine and imprisonment at the discretion of the Judge who tries the case, not to exceed three hundred dollars and three months' imprisonment.

Master may arrest offender.
Ib.

SEC. 29. It shall be lawful for the master or other person having the command of the said vessel, or the care, custody, and control of the same, to seize and arrest all persons while so offending, and to take them before any Trial Justice, to be committed or bound over to appear as in other cases of misdemeanor.

Burden of proof.
Ib.

SEC. 30. Upon the trial of any person indicted under the twenty-eighth Section of this Chapter, in case it shall be proved that any such person shall have entered or attempted to go on board of any vessel within the jurisdiction of this State, it shall be obligatory upon the person accused to prove that he had previously received the required permission, and, in default of such proof, such person shall be presumed to have entered without such permission, and be found guilty accordingly.

CHAPTER LXXVI.

OF UNCLAIMED PROPERTY TRANSPORTED BY COMMON CARRIERS.

SEC.
1. Unclaimed freight and baggage, how disposed of; to be advertised.
2. Contents of advertisement.
3. Disposition of moneys received therefrom.
4. Books of sales to be kept for inspection.

Freight and baggage unclaimed, how disposed of.
1861, XIII, 62, 70

SECTION 1. Every railroad corporation, express company, and the proprietors of every steamboat engaged in the transportation of passengers and freight, or either, which shall have had unclaimed freight or baggage, not perishable, in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in one or more newspapers published in the State, or at the place where such goods are to be sold, once a week, for not less than four weeks, and shall also keep a notice of such sale posted for the same time in a conspicuous place in the principal office of the said company.

To be advertised.

Contents of advertisement.
Ib.

SEC. 2. Said notice shall contain, as near as practicable, a description of such freight or baggage, the place and time, when and where left, together with the name and residence of the owner of the freight or baggage, or person to whom it is consigned, if the same be known.

Moneys therefrom, how disposed of.
Ib., § 11.

SEC. 3. All moneys arising from the sale of freight or baggage, as aforesaid, after deducting therefrom charges and expenses for the transportation, storage, advertising, commissions for selling the property, and any amount previously paid for advances on such freight and baggage, shall be paid by the company to the persons entitled to receive the same.

Books of sales to be kept for inspection.
Ib.

SEC. 4. The said company shall keep books of record of all such sales as aforesaid, containing copies of such notices, proofs of advertisements and posting, affidavit of sale, with the amount for which each parcel was sold, the total amount of charges against such parcel, and the amount held in trust for the owner; which books shall be opened for inspection by claimants, at the principal office of the said company, and at the office where the sale was made.

CHAPTER LXXVII.

OF THE PROTECTION OF GAME.

SEC.

Fish.

1. Obstructions in rivers; close time; penalty.
2. Fishways to be constructed.
3. Impurities not to be cast into fish streams.
4. Fish traps to be designated; penalty for obstructing; disposition of fines.
5. To be designated yearly.
6. Fine not paid offender to be imprisoned; proviso.
7. No fish traps to be kept up near the mouths of inland streams.
8. Penalty for obstructing navigation by fish trap.
9. Stealing fish in a fish trap; penalty.

Deer.

10. Killing deer at certain periods prohibited.
11. Servant offending by command of employer.
12. Penalty for killing deer in the night time.
13. Penalty for killing does at certain periods.
14. Any person may kill deer for food at any time.

Hunting. General Provisions.

15. Persons not allowed to hunt further than seven miles from their residence.
16. Penalty for hunting with fire in the night time.
17. Fines and forfeitures how to be recovered and disposed of.
18. If fines not paid offenders to be imprisoned.
19. Offenders to be liable to action at law.
20. Reward for informing of fire hunters.
21. Non-residents not to hunt.
22. Penalty.
23. Who are non-residents; may hunt by authority of landlord.

Fish.

Obstructions in rivers: close time: penalty. 1870, XIV, 338; 1871, XIV, 690, § 1

SECTION 1. That at no time during the year shall there be any permanent obstructions, of any kind or nature whatever, in any of the inland creeks, streams or waters of the State, to the free migration of fish; and there shall be a close time in all the creeks, streams and inland waters of this State from the setting of the sun each Saturday until the rising of the sun on each Monday, during which time all seines, nets, wires, or any plan or device for the stoppage or catching of fish which obstruct more than two-thirds of any stream, other than a dam for manufacturing purposes, shall be removed from said creeks, streams or waters, and the owner, in whole or in part, of any such obstruction, plan or device shall be liable to a fine of twenty dollars for each and every offence, one-half to go to the informer, and the other half to the use of the County in which such obstruction is found.

Fishways to be constructed. Ib., 661, § 2.

SEC. 2. All manufacturing companies or persons who have erected, or may erect, artificial dams across the inland creeks, streams or waters of this State, which prevent the migratory fish from ascending the same, shall construct proper fishways over the same; and should such manufacturing companies or persons refuse or fail so to do, they shall be liable to a fine of five thousand dollars, recoverable by the County in which such dam has been or may be erected, in a Court of competent jurisdiction.

Impurities not to be cast into fish streams. Ib., § 3; 1726, III, 270, § 2.

SEC. 3. Should any person or persons cause to flow into, or be cast into, any of the creeks, streams or inland waters of this State, any impurities that are poisonous to fish or destructive to their spawn, such person or persons shall, upon conviction thereof, be punishable with a fine of not less than five hundred dollars, or imprisonment of not less than six months in the County jail; the fine to go one-half to the informer, and the other half to the County.

Fish sluices to be designated.

1827, VI, 340; 1837, VI, 509, § 2. 5 Rich., 484.

SEC. 4. It shall be the duty of the Commissioner of the Bureau of Agricultural Statistics to designate the fish sluices on the several rivers, so as to leave one or more passages for fish up the said river, which sluices shall be sixty feet wide, or, where there are two or more such sluices, they shall be, together, sixty feet wide; and when they shall be so designated, it shall be lawful for any person to open such sluices; and if any person shall obstruct any such sluice, when once opened, so as to prevent the free passage of fish up the same, and every part thereof, he shall be deemed guilty of a public nuisance, and, on conviction thereof in the Court of General Sessions, shall be fined one hundred dollars, and shall stand committed until such fine shall be paid, for a time not exceeding ten days, at the discretion of the Court before which such conviction may take place; one-half of the fine shall be paid to the informer, and the other half into the Treasury of the State. Whenever a fish sluice in any of the rivers aforesaid shall have been designated as aforesaid, any stoppage of the same shall be regarded as a public nuisance, and may be abated as such.

Penalty for obstructing.

Disposition of fine.

To be designated yearly. 1838, VI, 509, § 2.

SEC. 5. That the said Commissioner shall designate and lay out the fish sluices but once a year, and shall execute this duty on or before the first day of October, whenever he shall determine to change them in any year.

Commissioner. 1827, VI, 341.

SEC. 6. Nothing herein contained shall be construed to give authority to the said Commissioner to designate any fish sluice through any dam erected by public authority for the improvement of the navigation of any of the said rivers, or to designate any fish sluice through any dam erected by individuals for the purpose of propelling any machinery, where the owner of such dam shall leave open a part of the river sixty feet wide, or where the dam extends entirely across the river, shall construct therein a sufficient fish sluice, sixty feet wide, and shall keep the same open for and during the months of February, March and April, in each year.

No fish traps to be kept up near the dams on any navigable stream.

Ib., 340; 1822, IX, 521, § 29.

SEC. 7. That it shall not be lawful for any person whomsover, at any time, to erect or keep up any fish trap or other device for catching fish, or to fish with any net or seine, within eighty yards of any dam erected by the order or at the expense of the State across any stream intended thereby to be made navigable, in which dams there shall be left or constructed any sluice for the passage of fish; and all and every person or persons offending shall, for each and every offence, pay the sum of twelve dollars, to be recovered before the Court of General Sessions of the County where the offence may have been committed, one-half of which penalty shall go to the informer, and the other half to the support of the work to which the dam is attached; and all traps and other devices for catching fish, erected or kept up in violation of this Section, are hereby declared public nuisances, and may be abated as such.

Penalty for obstructing navigation by fish trap.
1829, VI, 393, § 2.

SEC. 8. If any person shall keep, put, or cause to be kept, put, or placed by him, her or them, any fish trap, in or near any boat sluice, in any of the rivers within this State, so as thereby to injure or in the least obstruct the free navigation of said rivers, every such person or persons so offending shall forfeit, for each and every such offence, the sum of one hundred dollars, for the use of the State.

Stealing from a fish trap; penalty.
Ib., § 1.

SEC. 9. That any person who shall take and carry away from any fish trap in the waters of this State any fish caught and being in said trap, with intent to defraud and deprive the owner or owners of said trap of the said fish, shall be deemed guilty of a misdemeanor, and, on conviction thereof by indictment, shall be punished for said offence by fine, not exceeding two hundred dollars, and imprisonment not exceeding six months.

Deer.

Killing deer prohibited at certain periods.
1769, IV, 310, § 1; 1789, IV, 511, § 1.

SEC. 10. That it shall not be lawful for any person whatsoever to shoot or kill any doe or fawn, between the first day of January and the last day of July in any year; nor to shoot or kill any buck, between the first day of September and the last Friday of October, and between the first day of March and the last day of April, in any year; and if any person whatsoever shall presume to hunt, shoot or kill, or otherwise destroy, any buck, doe or fawn, running wild in the woods, within the times hereinbefore respectively limited, every person so offending shall forfeit and pay the sum of ten dollars for every buck, doe or fawn so killed or destroyed, the same to be recovered before any Trial Justice in the County where such offence shall be committed, upon conviction by the oath of one sufficient witness, or on confession of the party; such penalty to be applied and disposed of in the manner hereinafter directed.

Servant offending by command of employer. Proviso.
1769, IV, 310, § 1.

SEC. 11. If any servant, by command of his or her employer, shall so shoot or kill any deer, as aforesaid, the party giving such command shall be liable to the like penalties respectively: *Provided, always*, That it shall and may be lawful for any freeholder or housekeeper, at any time, to kill, or cause to be killed, any kind of deer in his enclosed grounds, without being liable to any penalty for so doing.

Penalty for killing deer in the night time.
Ib., 311, § 2.

SEC. 12. That any person or persons who shall hunt or kill any deer in the night time, except in their own enclosed grounds, for every such offence shall forfeit and pay the sum of twenty dollars, to be applied and disposed of in the manner hereinafter directed.

Penalty for killing does.
1789, V, 125, § 1.

SEC. 13. That any person or persons convicted of killing does at any time between the first day of March and the first day of September, shall be liable to the fines, forfeitures and penalties imposed by Section 16, to be recovered and applied in the manner directed by Sections 17 and 18 of this Chapter.

Any person may kill deer for food at any time.
1769, IV, 310, § 1.

SEC. 14. That nothing in this Chapter contained shall extend, or be construed to extend, to any person who shall kill, at any time, any deer for food, for the necessary subsistence of himself or family, so as such person do not sell or dispose of the skin of any deer so killed; and in case any person shall be prosecuted for killing deer within the times prohibited by this Chapter, and such person shall allege that he killed such deer for food for the necessary subsistence of himself or family, the burden of the proof shall lie on the person so prosecuted.

Hunting—General Provisions.

Persons not allowed to hunt further than 7 miles from their residence.
1769, IV, 310, § 1;

SEC. 15. That if any person, at any time whatsoever, shall hunt or range on any lands whatsoever, without the consent of the proprietor, at a greater distance from his or her place of residence than seven miles, every such person so offending shall forfeit and pay the sum of ten dollars for every such offence.

Penalty for hunting with fire in the night time.
1789, V, 124, § 1.

SEC. 16. That any person or persons who shall hunt with fire in the night time, for every such offence shall forfeit and pay a sum not exceeding ten dollars, and for every deer so killed, a sum not exceeding twenty-five dollars, and for every horse or head of neat cattle, or other stock of any kind, a sum not exceeding fifty dollars.

Fines and forfeitures, how to be recovered and disposed of.
1769, IV, 311, § 3.

SEC. 17. All the penalties and forfeitures mentioned in the preceding Section, shall and may be recovered before any Trial Justice in the County where any of the said offences shall be committed, and when received shall be divided and paid, one-half to and for the use of the poor of the County where the offence shall be committed, and the other half to the person who will inform for the same; and the oath of one credible witness, or the confession of the party accused, shall be allowed as sufficient evidence to convict the offender, by every Trial Justice before whom information shall be made of any of the offences aforesaid: *Provided*, That where the owners of any lands shall prosecute for any unlawful hunting and ranging on his or her lands, the oath of such owner shall be sufficient evidence to convict the offender, but in that case the whole penalty shall go to the use of the poor of the County.

If fines not paid offenders to be imprisoned.
Ib.; 1789, V, 124, § 1.

SEC. 18. That in case any person or persons so convicted shall refuse or neglect to pay such fine, then it shall and may be lawful, and the Trial Justice, before whom he is convicted, is hereby required to commit such person or persons to the common jail in the County where the offender or offenders shall have committed the said crime, there to remain without bail for a term not exceeding three months' for unlawfully hunting with fire in the night time, and for a term not exceeding two months for violations of Sections 10, 11, 12, 13 and 15 of this Chapter.

Offenders liable to action by law.
1789, V, 124, § 2.

SEC. 19. That any person or persons who shall hereafter hunt with fire in the night time, or kill any horse or neat cattle, or other stock of any kind, the property of another person, shall be liable to a civil action by the person so aggrieved, in addition to the above penalties.

SEC. 20. Any person who will give information to a Trial Justice of any fire hunter, shall, on his conviction, be entitled to thirty dollars, to be paid out of the public Treasury.

Reward for informing of fire hunters. 1778, IV, 411, 4.

SEC. 21. That it shall not be lawful for any non-resident of this State to use a gun, set a trap or decoy, or to employ any other device for killing or taking deer, turkeys, ducks or any other game, nor to set a trap, seine, or net, or draw or use the same, or any other contrivance for taking or killing fish, within the territorial limits of this State.

Non-residents not to hunt. 1855, XII, 406, § 1.

SEC. 22. Every person who shall offend against the provisions of the preceding Section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a penalty not exceeding two hundred dollars, nor less than one hundred dollars, and imprisonment not exceeding three months, nor less than one month, for each and every violation of any of the said provisions.

Penalty. Ib., § 2.

SEC. 23. All persons shall be deemed and taken as non-residents within the meaning of the last two Sections, who shall not have had their actual domicil in this State for one year next preceding their use of any of the implements of the chase or fishery forbidden by the twenty-first Section of this Chapter. But nothing herein contained shall be construed as prohibiting any landholder from authorizing any person to hunt or shoot ducks or other game, or to fish within the boundaries of his own land.

Non-residents may hunt by authority of landlord. Ib., § 3; Con., Art. VIII, § 2.

CHAPTER LXXVIII.

OF THE PROTECTION OF OYSTER BEDS.

SEC.
1. Penalty for stealing oysters from oyster beds.
2. Penalty for using nets, dredges, &c.
3. Oyster shells may be carried off from certain lands.
4. Not to apply to fishing.

SECTION 1. That if any person or persons shall feloniously gather, remove, take, or steal, from any oyster bed, laying, or fishery, any oysters, or oyster brood, there growing, lying, or being, such oyster bed, laying, or fishery, being the property of any other person or persons, and cultivated and used by the proprietor or proprietors thereof, for the production, growing, and improvement of oysters, and being sufficiently marked out, every person or persons so offending shall be deemed and held guilty of larceny, and he, she, or they, or his, her, or their, aiders, helpers, abettors, or accessories, being thereof convicted by due course of law, shall be punished as in cases of larceny.

Penalty for stealing oysters from beds. 1848, XI, 448, § 1.

Fine for using nets, &c.
Ib., § 2.

SEC. 2. If any person or persons shall unlawfully and willfully use any dredge, or any net, instrument, or engine whatsoever, within the limits of any such oyster bed, laying or fishery, as aforesaid, for the purpose of taking oysters, or oyster brood, although none be actually taken; or shall, with any net, instrument, or engine, drag upon the ground or soil of any such oyster bed, laying or fishery, every person or persons so offending shall be held and deemed guilty of a misdemanor, and, upon being convicted thereof, shall be punished by fine or imprisonment, or both, as the Court may award, such fine not to exceed one hundred dollars, and such imprisonment not to exceed six months.

Persons may carry off oyster shells from certain lands.
787, V, 3[illegible], § 4.

SEC. 3. It shall and may be lawful for all and every person and persons to collect and carry off oysters and oyster shells, below highwater mark, from all lands for which warrants of survey have been taken out, and which have not been passed and confirmed by grants under the signature of His Excellency the Governor.

Not to apply to fishing.
1818, XI, 418, § 2.

SEC. 4. Nothing herein contained shall be so construed as to prevent any person or persons from catching, or fishing for, any swimming or floating fish, within the limits of any oyster bed, laying or fishery with any net, instrument or engine adapted for taking swimming or floating fish.

CHAPTER LXXIX.

OF GAMBLING.

SEC.
1. Penalty for playing at certain games, or betting on the sides of those who do play.
2. Penalty for keeping, &c., gaming tables, &c.
3. Penalty for betting on elections.
4. Wages to be forfeited.
5. Rooms where offences are committed may be broken open.
6. Wagers lost may be recovered by action.
7. If losers do not sue, any other person may.
8. Orders for discovery.
9. Notes, &c., given to secure wagers, void.
10. Grants, conveyances, &c., of land, void.
11. Gamblers to give security for good behavior, or be committed.
12. A wager of five dollars to forfeit recognizance.
13. Imprisonment; proviso.
14. Offender convicted not to be licensed to sell liquors.
15. Criminal to challenge or fight on account of wagers.
16. Certain officers to take oath to enforce this Chapter.

Penalty for playing at certain games or betting on the sides of those who do play.
1808, VI, 27, 5, 1808, V, 4, 2, 1, 2 Bay, 5[illegible]; 1 N. & McC., 4[illegible]; 2 McC., 1[illegible]; 2 N. & McC., 3[illegible]; 2 N. & McC., 5[illegible]; 2 Brev., 1[illegible]; 7 Rich., 9[illegible]; 9 Rich., 267.

SECTION 1. That if any person or persons shall play, at any tavern, inn, store for the retailing of spirituous liquors, or in any house used as a place of gaming, or in any barn, kitchen, stable or other out house, or in any street, highway, open wood, racefield, or open place, at any game or games, with cards or dice, or at any gaming table commonly called A. B. C. or E. O., or any gaming table known or distinguished by any other letters, or by any figures, or roley poley table, or at *rouge* and *noir*, or at any faro bank, or at any other table or bank of the same or the like kind, under any denomination whatsoever (except the games of billiards, bowls, backgammon, chess, draughts, or whist, when there is no betting

on the said games of billiards, bowls, chess, backgammon, or whist,) or shall bet on the sides or hands of such as do game,—any Trial Justice may, upon view or information upon oath before him, bind over to appear at the next Court of Sessions for the County in which such play shall be carried on, all and singular the said person or persons, who shall so play or bet, and shall require him or them to give good and sufficient security for his or their appearance thereat; and on his or their failure to give such security, shall commit him or them to the common jail of the said County; and shall also bind over the keeper or keepers of taverns, inns, stores for the retailing of spirituous liquors, public places, or houses used as a place for gaming, or other public house, to appear at the ensuing Court of Sessions; and every person or persons so playing, or betting on the sides or hands of such as do game, upon being convicted thereof upon indictment, shall be imprisoned for a period not exceeding twelve months, and shall forfeit a sum not exceeding five hundred dollars, one half to the use of the State, and the other half to the use of the informer, upon the conviction of such offender; and every person so keeping such tavern, inn, retail store, public place or house used as a place for gaming, or such other public house, shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months, and forfeit a sum not exceeding two thousand dollars, for each and every offence, one-half thereof to the use of the State, and the other half to the use of the informer.

Penalty for keeping, &c., gaming tables, &c. 1816, VI, 27, § 2.

SEC. 2. Any person or persons who shall set up, keep, or use, any gaming table commonly called A. B. C. or E. O., or any gaming table known or distinguished by any other letters, or by any figures, or roley poley table, or table to play at *rouge* and *noir*, or any faro bank, or any other gaming table or bank of the like kind, or of any other kind for the purpose of gaming, (except the games of billiards, bowls, chess, draughts, and backgammon,) upon being convicted thereof, upon indictment, shall forfeit a sum not exceeding five hundred dollars, and not less than two hundred dollars.

Penalty for betting on elections. 1850, XII, 72, § 1.

SEC. 3. Any person who shall make any bet or wager of money, or wager of any other thing of value, or shall have any share or part in any bet or wager of money, or wager of any other thing of value, upon any election in this State, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding one month, one-half of the fine to go to the informer, and the other half to the use of the State.

Wagers forfeited. 1816, VI, 28, § 6.

SEC. 4. All and every sum or sums of money staked, betted, or pending on the event of any such game or games, as aforesaid, are hereby declared to be forfeited; one-half thereof to the State, and the other half to the informer or person seizing the same.

Rooms may be broken open.
Ib., § 7.

SEC. 5. Any Judge or Trial Justice, the Mayor or any of the Aldermen or the Sheriff, of the city of Charleston, on information, by oath, of any credible witness, of such offence existing, is authorized to grant his warrant, under his hand and seal, to break open and enter any closed door or rooms, wherever the said offences are alleged to prevail.

Wagers lost may be recovered by action.
9 Ann, c. 14, 1712, II, 566, § 2. 2 Brev., 226. 4 McC., 211; 1 Bail., 3 5, 593.

SEC. 6. Any person or persons whatsoever, who shall at any time or sitting, by playing at cards, dice table, or other game or games whatsoever, or by betting on the sides or hands of such as do play at any of the games aforesaid, lose to any one or more person or persons so playing or betting, in the whole, the sum or value of fifty dollars, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying or delivering the same shall be at liberty, within three months then next ensuing, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action, to be prosecuted in any Court of competent jurisdiction.

If loser does not sue any other person may.
Ib.

SEC. 7. In case the person or persons who shall lose such money or other thing as aforesaid, shall not, within the time aforesaid, really and *bona fide*, and without covin or collusion, sue, and with effect prosecute for the money or other thing, so by him or them lost, and paid and delivered as aforesaid, it shall and may be lawful to and for any person or persons, by any such action or suits as aforesaid, to sue for and recover the same, and treble the value thereof, with costs of suit, against such winner or winners as aforesaid; the one moiety thereof to the use of the person or persons that will sue for the same, and the other moiety to the use of the poor of the County where the offence shall have been committed.

Orders for discovery.
Ib. § 3.

SEC. 8. Any person or persons, who, by virtue of the provisions herein contained, shall or may be liable to be sued for the said moneys, or other things so won, shall be obliged and compellable to answer, upon oath, such order or orders as shall be made against him or them, for discovering the sum and sums of money, or other things so won at play, as aforesaid.

Notes, &c., void.
16 C. 2, c. 7, 1712, II, 517, § 3; 9 Ann, c. 14, 1712, II, 567, § 5; 1790, V, 178, § 5. 2 Bay., 560; 2 M. Con. R., 200; 2 N. & McC., 128; 1 Bail., 593; 1 Spears, 382; 9 Rich., 264.

SEC. 9. All notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever, given, granted, or entered into, or executed by any person or persons whatsoever, where the whole or any part of the consideration of such conveyances or securities shall be for any money or valuable thing whatsoever won by cock-fighting, horse-racing, or by gaming or playing at cards, dice, tables, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or any other game or games, or for the reimbursing or repaying any money knowingly lent or advanced at the time and place of such cock-fighting, horse-racing or play, to any person or persons so gaming or betting, as aforesaid, or that

shall, during such cock-fighting or horse-racing or play, so bet, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever.

Grants, conveyances, &c., of land void. Ib.

SEC. 10. Where such mortgages, securities, or other conveyances shall be of lands, tenements or hereditaments, or shall be such as to encumber or affect the same, such mortgages, securities, or other conveyances, shall enure and be to and for the sole use and benefit of, and shall devolve upon, such person or persons as shall have been or may be entitled to such lands, tenements, or hereditaments, in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been dead, and as if such mortgages, securities or other conveyances had been made to such person or persons by the person or persons so incumbering the same; and all grants and conveyances to be made for the preventing of such lands, tenements or hereditaments from coming to, or devolving upon, such person or persons, hereby intended to enjoy the same, as aforesaid, shall be deemed fraudulent and void, and of none effect, to all intents and purposes whatsoever.

Gamblers to give security for good behavior or be committed. 9 Ann, c 14, II, 1712, 567, § 6.

SEC. 11. It shall and may be lawful for any two or more Trial Justices in any County or city whatsoever, to cause to come or to be brought before them, every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain themselves by, but do, for the most part, support themselves by gaming; and if such person or persons shall not make it appear to such Justices that the principal part of his or their expenses is not maintained by gaming, then such Justices shall require of him or them sufficient securities for his or their good behavior for the space of twelve months; and, in default of his or their finding such securities, shall commit him or them to the common jail, there to remain until he or they shall find such securities, as aforesaid.

Wager of $5 to forfeit recognizance. Ib., § 7.

SEC. 12. If such person or persons so finding securities, as aforesaid, shall, during the time for which he or they shall be so bound to good behavior, at any one time or sitting, play or bet for any sum or sums of money, or other thing, exceeding in the whole the sum or value of five dollars, such playing shall be deemed and taken to be a breach of his or their behavior, and a forfeiture of the recognizance given for the same.

Imprisonment. 1816, VI, 28, § 4.

SEC. 13. Upon conviction of every person under the provisions of any of the foregoing Sections of this Chapter, the Court before whom such conviction shall take place is hereby required to commit such offender to the common jail of the County where such conviction shall happen, for a period not exceeding twelve months, unless such offender shall sooner pay the fine or fines herein imposed, together with the costs of prosecution: *Provided, however,* That all persons who might be subject or liable to the fines and penalties imposed herein, either for gaming at or keeping a gaming table or tables, shall, upon being permitted by the Circuit Solicitor to become evidence in behalf of the

Proviso.

State, be freed and exonerated from the same; and shall, besides, be entitled to one-half of the fines recovered from any individual upon his or their information.

Offender may not receive license to sell liquor.
1816, VI, 28, 5.

SEC. 14. It shall not be lawful for any corporation, having power to grant licenses for the retailing of spirituous liquors, to grant a license to any person or persons whomsoever who shall or may have been convicted of any of the offences created herein; and every such license is hereby declared to be null and void, and shall not be received in evidence upon an indictment for retailing spirituous liquors without license.

Criminal to challenge to fight on account of wagers.
9 Ann, c. 14, II, 567, 8.

SEC. 15. That in case any person or persons whatsoever shall assault and beat, or shall challenge or provoke to fight, any other person or persons whatsoever, upon account of any money won by gaming, playing or betting at any of the games aforesaid, such person or persons assaulting and beating, or challenging or provoking to fight, such other person or persons upon the account aforesaid, shall, being thereof convicted upon an indictment or information, to be exhibited against him or them for that purpose, suffer imprisonment, in the common jail of the County where such conviction shall be had, for the term of two years.

Certain officers to take oath to enforce this Chapter.
1816, VI, 27, § 3.

SEC. 16. Each Sheriff, Deputy Sheriff, Coroner, and their deputies, and every Trial Justice and all Constables, shall, before they be qualified to act in their and each of their respective offices, in addition to their respective oaths of office, take an oath to enforce and, to the extent of their power and ability, carry into effect this Chapter, and, in all cases, to bring to justice violations of the same, whenever such violations shall come within their view and knowledge.

CHAPTER LXXX.

OF LICENSES.

SEC.

Taverns.

1. Cities and towns to conform to following regulations.
2. No person to be licensed to keep tavern unless recommended by six freeholders.
3. Tavern keepers to give bond; amount; form of bond.
4. Recognizance to be filed with Clerk of Council; estreatment for breach.
5. Tavern keepers to keep two beds and provide good diet, and stabling and provender for four horses.
6. License good for but one place.
7. Licenses may be renewed yearly. No person once convicted of violation of certain Sections of this Chapter to receive license.
8. Liquors not to be sold out of tavern house.
9. Price of license; to be paid before being granted.
10. Debts for liquor to be lost; notes, &c., given for to be void.
11. Retail licenses not to authorize sale of less than a quart, &c.
12. Tavern keepers only, to sell less than a quart.
13. Penalty for violation of license law.
14. Liquors to be sold openly.
15. Liquor not to be sold within one mile of a church, &c., on days of worship. Penalty for so doing. Proviso.
16. Trial Justices to enforce provisions of this Chapter.

Plays and Shows.

17. Tax on plays and shows; amount; to be paid to Clerk of Court.
18. Clerks and Trial Justices may issue executions if tax is not paid.
19. Town officers may collect tax for shows exhibited within their limits.
20. City Council of Charleston may license theatrical entertainments.

Taverns.

SECTION 1. That such incorporated cities and towns as now are or may hereafter be vested with authority to grant tavern and retail licenses shall conform to the directions, and be subject to the restrictions and provisions herein contained.

Cities and towns to conform to the following regulations.
1849, XI, 559, § 13.

SEC. 2. No person shall be licensed to keep a tavern, but such as shall be recommended by at least six respectable freeholders of the neighborhood where said tavern is proposed to be kept, who shall certify that the person so recommended by them is of good repute for honesty and sobriety, and is known to the persons recommending to have at least two spare beds and necessary bedding, more than are required for the family of the said applicant, and is well provided with house-room, stabling and provender.

No person to be licensed to keep tavern unless recommended, &c.
Ib., 557, § 2; 559, § 13.

SEC. 3. Every person, before he or she shall receive a license to keep a tavern, shall become bound by recognizance to the city or town granting the same, in the sum of one thousand dollars, with two good and sufficient sureties, being freeholders in such city or town, to be approved of by the officers authorized to grant such license; which recognizance shall be in the form or to the effect following: "Know all men by these presents, that we, [A. B., C. D. and E. F.,] of [the city or town] acknowledge ourselves to owe [the city or town] the sum of one thousand dollars, to which payment well and truly to be made we bind ourselves and every of us, each and every of our heirs, executors and administrators, jointly and severally, by these presents; witness our hands and seals this day of in the year of our Lord one thousand eight hundred and . The condition of this recognizance is such, that whereas [A. B.] is licensed to keep a tavern in the house occupied by him [or her] in [the location particularly described,] for the space of one year from the date hereof; now, if the said [A. B.] during the continuance of the said license, shall not keep a disorderly house, nor suffer or permit any unlawful gaming in or about his [or her] said house, nor violate the laws concerning the traffic in spirituous liquors, but shall, during the said time, in all things, use and maintain good order and rule, and find and provide good, wholesome and sufficient lodging, diet and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to the keeping of taverns; then this recognizance to be void, otherwise to remain in full force and virtue."

Tavern keepers to give bond.

Amount.

Form of bond.
Ib., 557, § 3; 1835, VI, 528, § 1.

SEC. 4. The recognizance required to be given by the third Section of this Chapter shall be filed in the office of the Clerk of the Council of the city or town in which said recognizance was taken, and a copy thereof shall be filed in the office of the Clerk of the Court of the County wherein such city or town is situated; and in case of the breach of the condition thereof, it shall be lawful, in addition to the penalties imposed by law, in such cases, for any person to file an affidavit with the Clerk of the Court of General Sessions, in the County where such recog-

Recognizance to be filed with Clerk of Council.

Estreatment for breach.
1844, XI, 559, § 10. Amended by Com'rs.

nizance was given, stating the breach; and the Clerk of the said Court is hereby required to issue rule requiring the principal and his sureties to show cause at the next Court of General Sessions, why their recognizance should not be estreated; one half the amount for which such recognizance shall be estreated shall be given to the informer, and the other half to the use of the city or town taking such recognizance.

Tavern keeper to keep two beds, and provide good diet and stabling, &c.

Ib., 558, § 4. 7 Rich., 518.

SEC. 5. Every licensed tavern keeper shall have and keep in his or her house so licensed, at least two good feather beds or mattresses, for guests, with good and sufficient bedclothes for the same, and provide and keep good, wholesome and sufficient diet for travelers, and stabling and provender for four horses more than his or her own stock, upon pain of forfeiting his license and recognizance, and being subject to the like penalties as for selling without license.

License good for but one place

Ib., § 5.

SEC. 6. No license shall entitle any person to keep a tavern in any other place than that in which it was first kept by virtue of such license, and such license, with regard to all other places and persons, shall be void.

Licenses may be renewed yearly.

SEC. 7. Every license to keep a tavern may, in the discretion of the municipal authorities, authorized by law to grant the same, be renewed yearly upon the like recommendations, provisoes and penalties, and in the same manner, in every respect, as when such license was originally granted. And, further, if any person who, at the expiration of his or her license, shall neglect or refuse to renew the same in manner aforesaid, shall, notwithstanding, sell and retail spirituous liquors, then such person shall be subject to the like penalties as for selling without license: *Provided*, That no person once convicted by any Court of competent jurisdiction in this State, of a violation of any of the provisions of Sections 3, 5, 6, 7, 8, 11, 14 and 15 of this Chapter, shall ever thereafter receive a license to keep a tavern or to retail spirituous liquors in any manner, place or quantity.

No person once convicted to receive license.

Ib., § 8.

Liquors not to be sold out of tavern.

Ib., § 6.

SEC. 8. No license to keep a tavern shall authorize the person receiving the same, or any person, by his or her authority or permission, to sell or to keep and expose for sale spirituous liquors in any store, shop, or other place, where goods, wares or merchandise of any kind or description are sold, or in any bar, stand, or other place, out of the said tavern house for which license shall have been granted according to law; and any person offending against the provisions of this Section shall forfeit his or her license and recognizance, and shall be liable to all the penalties imposed by law for selling without license.

Price of license.

To be paid before being granted.

Ib., 7; 1865, XIII, 307, § 1.

SEC. 9. The City Council of Charleston and the various municipal corporations in whom the right to grant tavern licenses or licenses to retail spirituous liquors is vested, are authorized to fix the price of such licenses at such sum as to them may seem proper: *Provided*, That the same shall not be less than fifty dollars for each license: *And provided, further*, No such license shall be granted until the said sum shall have been paid by the person applying for the same.

SEC. 10. If any tavern keeper shall give credit to any person or persons for spirituous liquors, he, she or they so trusting or giving credit to any person or persons, as aforesaid, shall lose the debt, and be forever disabled from suing for or recovering the same, or any part thereof. And any note, bill, bond, or other security, which may be given for any spirituous liquors sold and drunk in or at his or her house, shall be void; and if any tavern keeper shall sue for any such debt, the person or persons sued shall and may plead this Section in bar thereof.

Debts for liquor to be lost.

Notes, &c., given for void 1849, XI, 558, § 9.

SEC. 11. It shall not be lawful for any person or persons, under a license to retail spirituous liquors, to sell, or cause to be sold, directly or indirectly, such liquors in quantities less than one quart; nor shall such retail licenses authorize the drinking of such liquors at the place where sold, or on the premises of the vendor. And if any person or persons whomsoever, without a license first had and obtained, according to the provisions of this Chapter, shall sell any spirituous liquors in quantities less than one quart, or shall allow the drinking of such liquors at the place of sale or on the premises of the vendor, he, she or they so offending shall be subject to all the penalties imposed by law for selling spirits without a license.

Retail license not to authorize sale of less than a quart, &c.

Ib., 559, § 11.

SEC. 12. No license shall be granted for the sale of spirituous liquors in quantities less than one quart, or which shall authorize the drinking of such liquors at the place where sold, except to tavern keepers, in the manner prescribed by this Chapter, and not otherwise.

Tavern keepers only to sell less than a quart.

Ib., 557, § 1. Cheves, 220.

SEC. 13. Any person who shall violate the license law of this State, as to the sale of spirituous liquors, upon conviction thereof, shall be fined in a sum not less than treble the amount of the price of a license prescribed, and, at the time of the commission of the offence, existing for the local jurisdiction wherein such offence is committed, and shall be imprisoned at the discretion of the Court.

Penalty for violation of license law.

1865, XIII, 307, § 2. 2 N. & McC., 309, *a*; 4 McM., 332; 1 Hill, 137, 3 Hill, 91-188; Dudley, 140; 1 Rich., 91; 3 Rich., 173; 8 Rich., 312.

SEC. 14. Every vendor or retailer of spirituous liquors, who shall clandestinely, or behind or within any screen, booth, or other place of concealment, exchange, give, deliver, sell or retail any spirituous liquors, shall, upon conviction, be fined in a sum not less than fifty dollars, nor more than two hundred dollars, according to the discretion of the presiding Judge.

Liquors to be openly sold.

1835, VI, 528, § 2.

SEC. 15. No person or persons shall hereafter retail, sell or otherwise dispose of, any spirituous or other intoxicating liquors, within one mile of any church, meeting house, or other place set apart for the worship of Almighty God, on the day or days of worship, under the penalty of fifty dollars, to be recovered by action or indictment, in any Court having jurisdiction thereof, the money to be applied to the use of the County in which such act shall be committed: *Provided, nevertheless,* That this Section shall not be considered to interfere with or affect the rights of persons who may reside within one mile of such place of worship, and who may be licensed to retail such liquors according to law, so as to prevent their retailing at their own houses.

Liquor not to be sold near Church, &c., days of worship.

Penalty for so doing.

Proviso.

1801, V, 509, § 1. 1 Bail., 151.

Trial Justices to enforce provisions of Chapter 1849, XI, 559, § 12.

SEC. 16. It shall be the duty of every Trial Justice, on view or complaint on oath, that any tavern keeper, retailer, or other person, has committed any act or thing contrary to, and in violation of, this Chapter, to cause the arrest, by warrant, under his hand and seal, of such tavern keeper, retailer, or other person so offending, and require, as is prescribed by law, security for his appearance at the next Court of General Sessions, then and there to answer to the matter of such complaint, and, in default of security, to commit to jail, there to be kept until discharged by due course of law, and, also, to bind the person making the complaint, or any others whose testimony may be material, to appear at the same time, to give evidence on behalf of the State against such offender.

Plays and Shows.

Tax on plays and shows; amount; to be paid to Clerks 1843, V, 711, § 35.

SEC. 17. That all persons representing publicly, for gain or reward, any play, comedy, tragedy, interlude or farce, or other entertainment of the stage, or any part therein, all fortune tellers, and those who exhibit wax figures, or shows of any kind whatsoever, shall pay a tax of three dollars per day, when they make those exhibitions at the towns or villages that are not incorporated; and the said sum of three dollars shall be paid into the hands of the Clerks of the Circuit Courts, respectively, who shall be bound to pay over the same into the County treasury, annually.

Clerks and Trial Justices may issue executions if taxes not paid 1843, XI, 246, § 3.

SEC. 18. If any person who is required to pay the aforesaid tax shall neglect to do so before such representation or exhibition, it shall be the duty of the Clerk of the Court, or any Trial Justice, for the County where the same may be done, to issue an execution for double the amount of tax so imposed, which execution may be directed to any Sheriff or Constable of this State, and against the body and goods of the person so being liable, and which may be levied in any County in the State; and every Trial Justice who shall so issue execution, shall cause the amount of the same to be paid to the Clerk of the Court for his County; and the Clerks of Courts shall pay, annually, into the County treasury, all such taxes as may come into their hands, respectively: *Provided*, That nothing herein contained shall be construed to extend to any incorporated town, village or city.

Town officers may collect taxes for shows, &c. 1835, VI, 532, § 9.

SEC. 19. That the Intendant and Wardens of all incorporated towns and villages (the city of Charleston excepted) shall have power to collect the taxes from all persons representing, publicly, within their respective corporate limits, for gain or reward, any plays, shows of what nature or kind soever, which, by the last Section, are made payable to the Clerks of Courts, the same to be used for the purposes of the said corporations, respectively.

City Council of Charleston may license theatrical entertainments. 1817, VIII, 284, § 9.

SEC. 20. That the City Council of Charleston are authorized to permit and license any person or persons, to exhibit theatrical entertainments within said city, and to impose and collect, for each and every such license, such sum as they may, from time to time, deem reasonable: *Provided*, The same does not exceed five hundred dollars.

PART II.

OF THE ACQUISITION, THE ENJOYMENT AND THE TRANSMISSION OF PROPERTY, REAL AND PERSONAL,—THE DOMESTIC RELATIONS, AND OTHER MATTERS CONNECTED WITH PRIVATE RIGHTS.

TITLE I.

OF REAL PROPERTY AND THE ALIENATION THEREOF.

CHAPTER LXXXI. *Of Tenure and Title.*
LXXXII. *Of Alienation by Deed; the Legal Formalities, Construction, and Operation of Deeds for the Conveyance of Lands.*
LXXXIII. *Of Estates in Dower and of Inheritance.*
LXXXIV. *Of Estates for Life, for Years, and at Will; and General Provisions Concerning Real Estate.*

CHAPTER LXXXI.

OF TENURE AND TITLE.

SEC.

Tenure of Lands.

1. To be in free and common socage.

Confirmation of Certain Titles.

2. Former grants, &c., made valid; all persons claiming under the same may hold against the State.
3. Errors: (1.) in names or necessary words of law; (2.) in omitting seals; (3.) in description; (4.) in any want of livery and seizin, &c.; or, (5.) in form or substance—not to invalidate grants, &c.
4. Ratification and confirmation saving the claims of third persons.
5. Estate of John Lord Carteret.
6. Grants, &c., before August 20, 1730, not to be impeached for certain causes.
7. Titles derived through aliens legalized.
8. Persons holding property under last Section may convey or devise.
9. Grantees and devisees must become residents.
10. Grants obtained five years before July 4, 1776, absolutely confirmed.

Titles to Catawba Indian Lands.

11. Catawba Indians may lease their lands for life; proviso.
12. Formal requisites of lease.
13. Certain rights vested in lessees of Catawba Indians.
14. Grants to lessees of leased Catawba Indian lands.
15. Lessee, how to proceed if lease be lost; proviso.

Tenure of Lands.

SECTION 1. That the only tenure of lands in South Carolina is that of free and common socage. Tenure. 1712, II, 413, § 5.

Confirmation of Certain Titles.

Former grants made valid.

SEC. 2. That all and every person or persons who are now possessed of or do hold any messuages, lands, tenements or hereditaments whatsoever, in the State of South Carolina, by and under any original patents, grants, deeds, indentures or poll, either made by the former Lords Proprietors or by their Palatine, or his deputy, and any three more of the Lords Proprietors, or their deputies, or by any of their Governors, and any three or more of the said Lords Proprietors, or the said Lords Proprietors' deputies, or by any other person or persons whatsoever, commissioned by their Palatine and any three or more of the said Lords Proprietors, or by any five of the said Lords Proprietors, their deputies or commissioners, as of fee simple or fee simple conditional, or for life or for terms of years, and all other person and persons whatsoever who are now possessed of or do hold any such estate or estates, by virtue of any mesne conveyances, derived from and under all or any such original patents, grants, deeds, indented or poll, shall and may from henceforth quietly and peaceably have, hold, use, occupy, possess and enjoy, all and every such messuages, plantations, lands, tenements and hereditaments whatsoever, to them, their heirs, executors, administrators and assigns, respectively, according to the several tenures in such original patents, grants, deeds indented or deeds poll and mesne conveyances, or last wills, derived from and under them respectively mentioned and expressed, and that against the said State for ever, and against all and every the said Lords Proprietors and their heirs, and all and every person and persons whatsoever, save and except as hereinafter excepted.

All persons claiming under the same may hold against the State.

1731, III, 298, § 19.

Errors not to invalidate grants, &c.

Ib.

SEC. 3. The said patents, grants, deeds indented, or poll, shall be held valid, notwithstanding—

Errors in names or necessary words of law;

First. Any misnomer or omission of the names of any of the said Lords Proprietors, or their deputies, any want of significant and necessary words in law for conveying of such lands, any omission, commission or mistake whatsoever in the said grants done, omitted or committed by all or any of the said Lords Proprietors, their deputies or trustees commissioned by the said Lords Proprietors, for selling of lands in this State;

In omitting seals;

Second. Any proper seal or seals not being used or affixed by the said Proprietors, their Governors, deputies, commissioners or trustees, to all or any such patents, grants, indentures, deeds or commissions;

In describing the lands;

Third. That the lands granted or conveyed, or intended to be granted and conveyed by such patents, grants, deeds indented or poll, have not been sufficiently described or ascertained in such patents, grants, deeds indented or poll, so that, nevertheless, any such lands, or some part thereof, have been surveyed or meted out, or ascertained by survey to such patentees, grantees or purchasers, or to their heirs or assigns, or to the heirs or assigns of the persons named as patentees or grantees or assigns, in such patents or grants, or deeds of assignment, or to their or any of their attorneys or agents in their behalf, by a survey of a sworn surveyor or surveyors, as part of such patent lands, or certified or re-

turned into the office of the late Surveyor General, (now Secretary of State,) by a sworn surveyor or surveyors thereto appointed; or so that the same lands, or some part thereof, have been described or ascertained by subsequent grants thereof, to such original patentees, grantees, or to persons named as such, their heirs or assigns, or to underpurchasers by mesne conveyances from such original patentees, grantees or assignees, or persons named as such, their heirs or assigns, or to persons claiming under them as such, or to their attorneys or agents in their or any of their behalf, before the twentieth day of August, A. D. seventeen hundred and thirty-one, (1731);

Fourth. Any want of livery and seizin, enrollment, attornment, or any other defect whatsoever, in the execution of all or any such patents, grants, deeds indented or poll, so made by the said Lords Proprietors, or any of them, their governors, deputies or commissioners, or in the not timely execution, or for the non-execution of the same, by reason of the first or former patentee or patentees dying before such lands were meted out to him or them, in part of such patents, or otherwise howsoever, so that, nevertheless, the heir or heirs of the persons who were named as patentees or grantees, or purchasers in such patents, grants or deeds of assignment, or the heirs or assigns of such first or former patentee or patentees, or any person or persons whatsoever, claiming as such, under all or any of them, their agents or attorneys, did cause any part of such vacant and unoccupied lands to be meted out or ascertained to them, or any of them, their heirs or assigns, or persons named as such in such deeds of assignment, conveyances or last wills, or to their attorneys or agents in their behalf, by survey or surveys of a sworn surveyor or surveyors, or certified or returned into the late Surveyor General's office, for and in part of such patent lands before conveyed or intended to be conveyed by such original patents, grants, indentures or deeds; or

Any want of livery and seizin, &c. Ib., 299.

Fifth. Any other defect, omission or commission in form or substance, law or fact, in all or any such original patents, grants, indentures or deeds, or assignments of the same, or in the execution thereof, or of any of them, so that such lands, or some part of them, have been meted out or ascertained to such patentees, grantees or assigns, or to persons named as such in any such patents, grants or deeds of assignment, or to their attorneys or agents in their behalf, or returned into the late Surveyor General's office as aforesaid, at any time before the said twentieth day of August, A. D. 1731.

Any defect in form or substance.

Sec. 4. All and every such patents, grants, indentures and deeds, and all other patents, grants, indentures and deeds from the said Proprietors, their governors, deputies, commissioners or trustees, where any lands have been so meted or ascertained or returned as aforesaid, and the assignments thereof, are hereby ratified and confirmed, for and notwithstanding all or any such defects in the patents, grants or deeds aforesaid, or any of them, or the assignments thereof, or other defects whatsoever, in not timely executing, undue or non-execution thereof as aforesaid, saving to every person and persons whatsoever, bodies politic and corporate, their executors, administrators and assigns, other than to the

Ratification and confirmation, saving the claims of third persons. Ib.

State of South Carolina, and other than to the said Lords Proprietors, and their heirs, and other than to such person and persons who do or may stand seized or possessed in trust, for the said State, or for the said Lords Proprietors, all such right, title, interest and demand whatsoever, which they or any of them now have and may claim of, in or to the said lands, tenements and hereditaments whatsoever, or any part thereof.

Estate of John Lord Carteret.

Ib.

2 G. 2, c. 34, I, 60.

SEC. 5. Nothing herein contained shall extend or be construed to alter or abridge the Right Honorable John Lord Carteret, his heirs, executors, administrators or assigns, or the said Lords Proprietors or their heirs, of any estate, right, title or interest whatsoever, which have or has been saved and reserved unto the said John Lord Carteret, or to the late Lords Proprietors, or any of them, in and by the Act entitled "An Act for establishing an agreement with seven of the Lords Proprietors of Carolina, for the surrender of their title and interest in that Province to His Majesty;" nor to revive or enlarge any estate or right or interest whatsoever in the said Lords Proprietors, or any of them, their or any of their heirs, of, in and to the estates aforesaid, or any part thereof, which they or any of them have granted and conveyed as aforesaid, to any person or persons whatsoever, or which they have surrendered by virtue of the aforesaid Act.

Grants, &c., before August 20, 1731, not to be impeached for certain causes.

1731, III, 302, § 28.

4 Ann, c. 16, 1712, II, 434, § 9; (Grimke's P. L., 95.)

SEC. 6. No grant, deed of feoffment, deed of bargain and sale, deeds of gift, or other conveyance of any lands or tenements whatsoever, made prior to the said 20th day of August, 1731, shall be impeached or set aside in any Courts of law or equity for want of attornment or of livery and seizin or enrollment thereof, or because such conveyance has been made by way of assignment or endorsement on such deeds or grants without other ceremony, nor for any other defect in the form or in the manner of the execution of such deeds or grants, or of the endorsements or assignments thereof, either by the first grantor or in any of the mesne conveyances derived therefrom, so that the right were or would have been in the person conveying, if such defects had not happened in the form of such grants, deeds or conveyances, or in the manner of the execution of the same as aforesaid.

Titles derived from or through aliens, legalized.

SEC. 7. Any citizen or citizens, alien or aliens, who, prior to the nineteenth day of December, A. D. one thousand eight hundred and seven, (1807,) entered into any *bona fide* contract or contracts, or received any grant or grants, or other deed or deeds of conveyance for, or relating to, any real property in this State, or who derived their titles from or through aliens, either mediately or immediately, may and shall hold and enjoy the same, in fee simple, or for any less estate, according to the nature of his, her or their contract or contracts, grant or grants, or other deed or deeds of conveyance; any law, usage or custom to the contrary thereof in anywise notwithstanding: *Provided*, That nothing contained herein shall be so construed as to interfere with, or at all invalidate, any grants of real property which may, before the said 19th day of December, 1807, have been made by the Legislature of

Proviso

1807, V, 517, § 1.

this State unto any person or persons, or unto any body or bodies corporate, or to affect, in any measure, descents cast before the date aforesaid.

Persons holding property under last section may convey or devise.
Ib., § 2.
1 Mill, 111; 2 Mill., 18; 1 McC., 187.

SEC. 8. All persons holding, or who shall hold, real property in this State, under the provisions of the last preceding Section, shall be, and they are hereby, permitted and allowed, to convey or devise the same to their child or children, grand-child or grand-children, notwithstanding such child or children, grand-child or grand-children, was or were born previously to the said persons' conveying or devising the same, having acquired titles thereto under the terms of the preceding Section.

Alien grantees and devisees must become residents.
Ib., § 2.

SEC. 9. The child or children, grand-child or children, to whom conveyances or devises may be made, under the provisions of the last preceding Section, and also the relations entitled as aforesaid to distributive proportions of the real property of those who have not aliened or devised their real property, under the provisions of the said Section, shall, if they are aliens, become a resident or residents in this State, within twelve months after the date of the conveyances made unto him, her or them, or of the decease of the person or persons devising the same or dying intestate as to such real property, and shall also become a citizen or citizens of this State within as short a period as he, she or they shall be enabled to become so under the existing laws.

Grants obtained five years before July 4, 1776, absolutely confirmed.
1787, V, 40, § 8.
1 Treadw., 329.

SEC. 10. An actual, peaceable, and quiet possession of lands five years previous to the fourth day of July, one thousand seven hundred and seventy-six, shall be deemed a good and sufficient title, and any grant obtained since that time, or which may be obtained, for the said land, is hereby declared null and void.

Titles to Catawba Indian Lands.

Catawba Indians may lease lands for life.
Proviso.
1808, V, 576, § 1.

SEC. 11. That it shall and may be lawful for the Catawba Indians to grant and make to any person or persons any lease or leases, for life or lives or term of years, of any of the lands vested in them by the laws of this State: *Provided*, That no lease shall exceed the term of ninety-nine years, or three lives in being.

Formal requisites of lease.
Ib., § 2; 1854, XII, 324, § 2.

SEC. 12. No lease of the lands of the Catawba Indians, whether for life or lives, or terms of years, shall be held or deemed as valid and good in law, unless the same be witnessed by a majority of the said Superintendents at the time of making thereof, and signed and sealed by at least four of the head men or chiefs of the said Catawba Indians.

Certain lands vested in lessees of Catawba Indians.
1838, VI, 602, § 1.

SEC. 13. All the reversionary right, title and interest of this State, in and to the Catawba Indian lands, situated in the Counties of York and Lancaster, within a boundary of fifteen miles square, and which are represented in a plat of survey made by Samuel Wiley, and dated the twenty-second day of February, one thousand seven hundred and sixty-four,

and now on file in the office of the Secretary of State, are hereby vested in the persons who now or hereafter may hold the said lands as lessees of the said Catawba Indians, their heirs and assigns, according to the location of their respective leases.

Grants to lessees of leased Catawba Indian lands. 1840, XI, 146, § 3.

SEC. 14. That each lessee of the Catawba Indian lands who shall deposit with the Secretary of State his lease and also the receipt or receipts of the former Tax Collector of the County wherein such lands may be situated for such taxes as may have been paid thereon, as heretofore required by law, shall be entitled to locate and receive a grant from the State (in the manner provided by law for granting vacant lands) for the land held by him under lease, upon payment of the usual fees, and shall thenceforth hold the land so granted in the same right as any other lands granted by this State are held.

Lessee, how to proceed if lease be lost.

SEC. 15. That if any lessee of the Catawba Indian lands, being in possession, shall not have it in his or her power to deposit the lease under which he or she holds, as required by the preceding Section, by reason of its loss or otherwise, such person shall file in the office of the Secretary of State a notice of his or her intention to apply for the issuing of a grant, and shall publish the same in one or more of the newspapers of the County in which such land is situated, for at least three months before the time of such intended application, which notice shall set forth the cause of the inability of such person to produce such lease, and shall be verified by the oath of the applicant; and such grant shall thereupon issue, if the person applying be otherwise entitled thereto: *Provided*, That if any person shall, within five years from the issuing of such grant, produce a lease of the premises so granted, such grant shall thereupon become null and void.

Proviso. 1857, XII, 611.

CHAPTER LXXXII.

OF ALIENATION BY DEED; THE LEGAL FORMALITIES, CONSTRUCTION AND OPERATION OF DEEDS FOR THE CONVEYANCE OF LAND.

SEC.

Recording.

1. No conveyance valid unless in writing, &c., and recorded. Time allowed for recording. Not to be recorded unless properly executed. Time for recording not to apply to mortgages.
2. Mortgages to be recorded within sixty days.
3. Livery of seizin to be recorded.
4. Form of conveyance. Must have two or more witnesses. Proviso.
5. Memorial of sales to be kept by Register of Mesne Conveyances. To contain what.
6. The sale, conveyance, &c., first registered to be deemed first sale.
7. Former mortgages registered may be redeemed by second mortgagees.
8. If same land be mortgaged while a former mortgage is in force, equity of redemption is lost.
9. Debts secured by mortgage to be paid in the order mortgages are recorded.
10. Dower saved to widow who did not legally renounce.
11. United States Tax Commissioner's certificates to be recorded in Beaufort County; such record to be notice of title.
12. Payment of rent to grantors valid in certain cases.
13. Attornments to strangers by tenants void. Not applicable to attornments made pursuant to law, &c.

Certain Conveyances Void.

14. Certain conveyances to bastard children or their mother void.

SEC.
15. Conveyances made to defraud creditors void.
16. Conveyances made to deceive purchasers void.
17. Parties to fraudulent conveyances to forfeit year's value of lands, &c., and be imprisoned one-half year. Disposition of forfeiture.
18. Conveyances upon good consideration to be valid.
19. Lands conveyed with condition of revocation, &c., and afterwards sold for good consideration, the first conveyances to be void. Not to affect mortgages *bona fide* made.

SEC.
Satisfaction of Mortgages.
20. Satisfaction to be entered when mortgage debts are paid.
21. Penalty for not so doing. When judge may order satisfaction to be entered.
22. Court may issue rule when satisfaction is not entered.
23. Proceedings when rule is issued.
24. If the Judge think proper, jury may decide whether mortgage has been paid, &c.

Recording.

No conveyance valid unless in writing, &c., and recorded.

Time allowed for recording.

Not to be recorded unless properly executed.

Not to apply to mortgages.

1871, XIV, 538, § 4.
1785, VII, 232, § 45; 1789, V, 128, § 1.
Ante. Chap 23, § 2.
1790, VII, 296, § 18.
1 McC., 266; Rice Eq., 243; Harper, 295; 6 Rich., 437; 2 N. and McC., 105; 2 Bail. Eq., 1; 3 Strob., 190; 11 Rich. Eq., 135.
1788, VII, 247, § 1.

SECTION 1. That no conveyance of lands, tenements or hereditaments, within this State, shall pass, alter or change from one person or persons to another, any estate of inheritance in fee simple, or any estate for life or lives, nor shall any greater or higher estate be made or take effect in any person or persons, or any use thereof, to be made by bargain or sale, lease and release, or other instrument, unless the same be made in writing, signed, sealed, and recorded in the office of the Register of Mesne Conveyances of the County where the land mentioned to be passed or granted shall lie, in manner following, that is to say:—if the person or persons who shall make and seal such instrument of writing, shall be resident within the State at the time of making, signing and sealing the same, then the recording thereof shall be within six months from the signing, sealing and delivery, and if the person or persons so making, signing and sealing, shall be resident in any other of the United States at the time aforesaid, then the recording shall be within twelve months, and if without the limits of the United States, then the recording shall be within two years: and if any deeds or any other conveyances shall not be recorded within the respective times before mentioned, such deeds or other conveyances shall be legal and valid only as to the parties themselves and their heirs, but shall be void and incapable of barring the right of persons claiming as creditors, or under subsequent purchases, recorded in the manner hereinbefore prescribed; and no such deed or conveyance whatsoever of real estate, shall be admitted to record unless the same be acknowledged by the grantor or grantors thereof, in person, before a Justice of the Supreme Court, or otherwise, by proof of the signing, sealing and delivery thereof, by the oath of one witness before a Trial Justice or Notary Public or Commissioner of Deeds, that the deed was duly and legally executed: *Provided,* That the time for recording such conveyances as herein fixed shall not apply to mortgages.

Mortgages to be recorded within sixty days.

1843, XI, 256, § 1.

SEC. 2. No mortgage or other instrument in writing in the nature of a mortgage of real estate shall be valid so as to affect the rights of subsequent creditors or purchasers for valuable consideration, without notice, unless the same shall be recorded in the office of the Register of Mesne Conveyances for the County wherein such real estate lies, within sixty days from the execution thereof.

Livery of seizin to be recorded.
1785, VII, 233, § 15.

SEC. 3. When any such deeds or conveyances shall be acknowledged, or proved, as aforesaid, in order to their being recorded, the memorandum of livery and seizin thereupon made in deeds of feoffment shall, in like manner, be acknowledged or proved, and shall be recorded with the deed, and such memorandum, proved and acknowledged as aforesaid, shall be taken and deemed a sufficient livery and seizin of the land or other real estate conveyed.

SEC. 4. The following form, or purport of a release, shall, to all intents and purposes, be valid and effectual, to convey from one person to another, or others, the fee simple of any land or real estate, if the same shall be executed in the presence of, and be subscribed by, two or more credible witnesses:

Form of Conveyance.

"THE STATE OF SOUTH CAROLINA.

"Know all men by these presents, that I, A. B., of ———, in the State aforesaid, have bargained, sold and released, and by these presents do grant, bargain, sell and release, unto the said C. D., all that [here describe the premises,] together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned, unto the said C. D., his heirs and assigns forever. And I do hereby bind myself, my heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said C. D., his heirs and assigns, against myself and my heirs, and against every person, whomsoever, lawfully claiming or to claim the same, or any part thereof.

Must have two or more witnesses.

"Witness my hand and seal, this ——— day of ———, in the year of our Lord ———, and in the ——— year of the Independence of the United States of America."

Proviso.
1712, II, 415, § 9; 1795, V, 255, § 1, Cheves, 271; 1 McM., 373.

Provided, That this Section shall be so construed as not to oblige any person to insert the clause of warranty, or to restrain him from inserting any other clause or clauses, in conveyances hereafter to be made, as may be deemed proper and advisable by the purchaser and seller; or to invalidate the forms heretofore in use within this State.

Memorial of sales, &c., to be kept by Register, &c.; to contain what.
1785, VII, 234, § 4; 1843, XI, 256, § 1.

SEC. 5. A memorial of sales and conveyances, mortgages, marriage settlements and deeds of trust, whereby any lands, the property of any persons residing in this State, charged, incumbered or passed from one person to another, shall be registered in the office of Register of Mesne Conveyances for the County wherein such real estate is situated, in books to be kept for that purpose; which memorial shall contain the date of the deed or conveyance, the names, surnames and additions of the parties thereto, the consideration mentioned therein, the lands conveyed, settled or mortgaged, and where the same lie.

Priority of sales, conveyances, &c.
1698, II, 137, § 1. 2 Hill Ch. 219; 6 Rich. Eq. 308; 6 Rich., 437; 1 S. C. R., 309.

SEC. 6. That the sale, conveyance or mortgage of lands and tenements (except original grants) which shall be first registered in the office of the Register of Mesne Conveyances, shall be taken, deemed, adjudged, allowed and held to be the first sale, conveyance and mortgage, and to be

good, firm, substantial and lawful in all Courts of judicature within South Carolina, any form or other sale, conveyance or mortgage of the same land not before registered notwithstanding.

SEC. 7. If it so happen there be more than one mortgage at the same time, by any person or persons to any person or persons, of the same lands and tenements, the several mortgagees which have not registered or recorded their mortgages, their heirs, executors, administrators or assigns shall have power to redeem any former mortgage or mortgages registered, upon payment of the principal debt, interest and cost of suit, to prior mortgagee or mortgagees, their heirs, executors, administrators or assigns.

Former mortgages may be redeemed by second mortgagees.
1698, II, 137, § 2; 4 & 5 W & M., c 16; 1712, II, 536, § 3. 2 Vern., 589.

SEC. 8. Every person or persons who shall mortgage the same lands and tenements a second time, the former mortgage being in force and not discharged, shall have no power or liberty of redemption in equity or otherwise.

No equity of redemption allowed if same land is twice mortgaged
Ib., § 3.

SEC. 9. Where the same lands are mortgaged at divers times, the debts meant to be secured by such mortgages shall be paid in the order the same are recorded, agreeably to law, and in no other order; any law, usage or custom to the contrary thereof in anywise notwithstanding.

Order in which mortgage debts are to be paid.
1791, V, 170, § 3.

SEC. 10. Nothing in this Chapter contained shall be construed, deemed or extended to bar any widow of any mortgagor of any lands or tenements from her dowry and right in or to the said lands, who did not legally join with her husband in such mortgage, or otherwise bar or exclude herself from such dowry or right.

Dower saved where widow did not legally renouce.
4 & 5 W. & M., c. 16; 1712, II, 536, § 5; 1698, II, 137, § 3.

SEC. 11. That the holders of all certificates or titles issued by or under the authority of the United States Direct Tax Commissioners for South Carolina, shall be allowed to record the same in the office of the Register of Mesne Conveyances for the County of Beaufort; and when such certificates shall have been so recorded, such recording shall be deemed to be a legal notice of title to the land described in the same.

U S Tax Commissioners titles to be recorded in Beaufort, &c.
1868, XIV, 14, § 1.

SEC. 12. That no tenant shall be prejudiced or damaged by payment of any rent to any grantor or conusor, or by breach of any condition for non-payment of rent, before notice shall be given to him of such grant by the conusee or grantee.

Payment of rent to grantor.
4 Ann, c 16. 1712, II, 434, § 9.

SEC. 13. That to prevent the difficulty and expense to which landlord or landlords, lessor or lessors may be put by the fraudulent practice of tenants in attorning to strangers who claim title to the estates of their respective landlord or landlords, lessor or lessors, (whereby the possession of estates in lands, tenements and hereditaments is rendered very precarious, and such landlord or landlords, lessor or lessors are by that means turned out of possession of their respective estates,) all and every such attornment and attornments of any tenant or tenants of any lands, tenements or hereditaments, shall be deemed and taken to be absolutely null and void, to all intents and purposes whatsoever; and the possession

Attornments to strangers by tenants void.
11 G. 2, c. 19, II, 575, § 11.

of their respective landlord or landlords, lessor or lessors, shall not be deemed or construed to be anywise changed, altered or affected by any such attornment or attornments: *Provided*, That nothing herein contained shall extend to vacate or affect any attornment made pursuant to, and in consequence of, some judgment, decree or order of Court, or made with the privity and consent of the landlord or landlords, lessor or lessors.

Certain Conveyances Void.

Certain conveyances to bastard children or their mother void.

1703 II, 226, § 9; 1795, V, 271, § 4.

SEC. 14. That if any person who is an inhabitant of this State, or who has any estate herein, shall have already begotten, or shall hereafter beget, any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own, living, and shall give, or settle, or convey, either in trust or by direct conveyance, by deed of gift, legacy, devise, or by any other ways or means whatsoever, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after payment of his debts, than one-fourth part thereof, such deed of gift, conveyance, legacy or devise, made, or hereafter to be made, shall be null and void for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

Conveyances made to defraud creditors void.

13 Eliz., c. 5; 1712, II, 697, § 2. Rast, 207; 2 Leon., 9, 223; 2 Roll., 493; Latch, 222; Dyer, 295, 351; 3 Coke, 80; 5 Co., 60; 8 Co., 171; 9 Co., 108; 10 Co., 56; Co. Lit., 70, *a*; 1 Leon., 47, 308; Hob., 72; Cro. El., 810; Bac., V, 2—601.

SEC. 15. Every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements or hereditaments, or of any of them, or of any lease, rent, commons or other profit or charge out of the same, by writing or otherwise; and every bond, suit, judgment and execution, which may be had or made, to or for any intent or purpose to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties and forfeitures shall be deemed and taken (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties and forfeitures, by such guileful, covinous or fraudulent devices and practices, as is aforesaid, are, shall or might be in any ways disturbed, hindered, delayed or defrauded) to be clearly and utterly void, frustrate and of none effect; any pretence, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

Conveyances made to deceive purchasers void.

27 Eliz., c. 4; 1712, II, 699, § 2 Moor, 602, pl., 836, 615, 843; 1 Roll., 167; Lane, 47; Bridgm., 22; Goldsb., pl 11; 3 Co., 80; 5 Co., 60; 6 Co., 72; 11 Co., 71; Cro. Jac., 168; Hob.,

SEC. 16. Every conveyance, grant, charge, lease, estate, incumbrance and limitation of use or uses, of, in or out of any lands, tenements or other hereditaments whatsoever, which may be had or made, for the intent and of purpose to defraud and deceive such person or persons, bodies politic or corporate, as shall purchase in fee-simple, fee-tail, for life, lives or years, the same lands, tenements and hereditaments, or any part or parcel thereof, or to defraud and deceive such as have or shall purchase any rent, profit or commodity in or out of the same, or any part thereof, shall be deemed and taken (only as against that person and persons, bodies

politic and corporate, his and their heirs, successors, executors, administrators and assigns, and against all and every other person and persons lawfully having or claiming by, from or under them, or any of them, which have purchased or shall hereafter so purchase for money or other good consideration, the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same,) to be utterly void, frustrate, and of none effect; any pretence, color, feigned consideration, or expressing of any use or uses to the contrary notwithstanding.

166; Vin., V, 13—526; Cok., Entr., 677; Cro. El., 44. 3 Brev., 204; 4 McC., 294; 3 Rich Eq, 33.

Parties to fraudulent conveyances to forfeit year's value of lands, &c., and be imprisoned half year.

Ib., 500, § 3; 13 Eliz., c. 5, 1712, II, 497, § 3.

SEC. 17. All and every the parties to such feigned, covinous and fraudulent gifts, grants, leases, charges or conveyances, or being privy and knowing of the same or any of them, who shall wittingly or willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple and done, had or made, *bona fide*, or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers, lessees or grantees, or of or to the disturbance or hinderance of their heirs, successors, executors, administrators or assigns, or such as have or shall lawfully claim anything by, from or under them, or any of them, shall incur the penalty and forfeiture of one year's value of the said lands, tenements and hereditaments so purchased or charged; the one moiety whereof for the use of the State, and the other moiety to the party or parties grieved by such feigned and fraudulent gift, grant, lease, conveyance, incumbrance or limitation of use, to be recovered by action in any Court of competent jurisdiction; and also being thereof lawfully convicted, shall suffer imprisonment for one-half year.

Conveyances upon good consideration, &c., valid

Ib., § 4; Ib., 498, § 6. Golds., 118, pl. 2; 2 Roll., 305; 3 Co., 83.

SEC. 18. Nothing contained in Sections 15, 16 and 17 of this Chapter shall extend or be construed to impeach, defeat, make void or frustrate any conveyance, assignment of lease, assurance, grant, charge, lease, estate, interest, or limitation of use or uses of, in, to or out of any lands, tenements or hereditaments heretofore at any time had or made, or hereafter to be had or made, upon or for good consideration and *bona fide*, to any person or persons, bodies politic or corporate; anything therein mentioned to the contrary notwithstanding.

If lands be conveyed with condition of revocation, &c, and afterwards sold for good consideration, first conveyance void.

SEC. 19. If any person or persons have heretofore made, or hereafter shall make any conveyance, gift, grant, demise, charge, limitation of use or uses, or assurance of, in or out of any lands, tenements or hereditaments, with any clause, provision, article or condition of revocation, determination or alteration, at his or their will or pleasure, of such conveyance, assurance, grants, limitations of uses or estates of, in or out of the said lands, tenements or hereditaments, or of, in or out of any part or parcel of them, contained or mentioned in any writing, deed or indenture of such assurance, conveyance, grant or gift; and after such conveyance, grant, gift, demise, charge, limitation of uses or assurance so made or had, shall or do bargain, sell, demise, grant, convey or charge, the same lands, tenements or hereditaments, or any part or parcel therof, to any person or persons, bodies politic and corporate, for money or

other good consideration paid or given, (the said first conveyance, assurance, gift, grant, demise, charge or limitation, not by him or them revoked, made void or altered, according to the power and authority reserved or expressed unto him or them in or by the said secret conveyance, assurance, gift, or grant;) then the said former conveyance, assurance, gift, demise and grant, as touching the said lands, tenements and hereditaments, so after bargained, sold, conveyed, demised or charged, against the said bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and against all and every person and persons which have, shall or may lawfully claim anything by, from or under them, or any of them, shall be deemed, taken and adjudged to be void, frustrate, and of none effect: *Provided*, That no lawful mortgage made, or to be made, *bona fide*, and without fraud or covin, upon good consideration, shall be impeached or impaired by force of anything in this Chapter contained.

Proviso.
27 Eliz., c. 4; 17 2, II, 500, § 5. Cro. Jac., 180.

Satisfaction of Mortgages.

Satisfaction to be entered when mortgage debts are paid.
18.7, VI, 61, § 1.

SEC. 20. That each and every person who shall have received full payment or satisfaction, or to whom a legal tender shall have been made, of his or their debt, damages, costs and charges, secured by mortgage of real estate, shall, at the request of the mortgagor or mortgagors, or of his, her or their legal representative, or of any other person being a creditor of the said debtor, or a purchaser under him, or having an interest in any estate bound by such mortgage, and on tender of the fees of office for entering such satisfaction, within three months after such request made, enter satisfaction in the proper office, on such mortgage, which shall forever thereafter discharge and satisfy the same.

Penalty for not doing so. When Judge may order satisfaction to be entered.
Ib.

SEC. 21. If any person, having received such payment, satisfaction or tender as aforesaid, shall not, within three months, by himself or his attorney, after request and tender of fees of office, repair to the said office, and enter satisfaction as aforesaid, he, she or they refusing or neglecting so to do shall forfeit and pay unto the party or parties aggrieved, a sum of money not exceeding one half of the amount of the debt secured by mortgage as aforesaid, to be recovered by action in any Court of competent jurisdiction within the State; and on judgment being rendered for the plaintiff in any such action, it shall be the duty of the presiding Judge to order satisfaction to be entered on the judgment or mortgage aforesaid, by the Clerk or Register, or other proper officer, whose duty it shall be, on receiving such order, to record the same, and to enter satisfaction accordingly.

Court may issue rule when satisfaction is not entered.
Ib, § 2.

SEC. 22. Any person who shall be indebted by mortgage, shall be, and he is hereby, authorized to apply to the presiding Judge of any Court of General Sessions and Common Pleas, to be held in the County in which such mortgage shall be recorded, for a rule to show cause why satisfaction should not be entered thereon.

SEC 23. It shall be the duty of such Judge to grant such rule, returnable on a day to be fixed by him; which rule shall be served on the plaintiff, or his legal representatives, or his or their attorney; and if the party so served shall not attend to show cause, or, attending, shall show insufficient cause, and the Judge shall be satisfied that the mortgage aforesaid has been fully paid, it shall be his duty to order the proper officer to enter satisfaction on the said mortgage.

Proceedings when rule is issued.

Ib.

SEC. 24. If on the return of the said rule, it shall appear to the presiding Judge that matters proper for the decision of a jury are involved in the case, he may, at the request of either party, submit the same to the jury, to be decided immediately in a summary manner; and if the jury shall decide that the mortgage has been paid, satisfaction shall be ordered accordingly.

When a jury may decide whether mortgage is paid.

Ib.

CHAPTER LXXXIII.

OF ESTATES IN DOWER AND OF INHERITANCE.

SEC.
1. Dower may be released by formal acknowledgment
2. How relinquished by conveyance.
3. Wife may renounce her dower.
4. Certificate of renunciation to be endorsed on release; form of certificate.
5. Wife may release her inheritance.
6. Certificate to be endorsed on release.
7. Not legal until recorded.
8. *Feme coverts'* conveyances made prior to August 20, 1731, legal unless made under restraint or force.
9. Made prior to March 8, 1778, and certified by proper officer, valid from time of acknowledgment.
10. Confirmation of titles under such conveyances.
11. If a wife clope she shall forfeit her dower.
12. Wife having jointure not to have dower.
13. Having no jointure to have dower at common law.
14. A woman whose jointure is recovered shall be endowed.
15. A jointure after marriage may be taken or refused by the wife.
16. On refusing jointure, she may demand dower at common law.

SECTION 1. That where any *feme covert* shall relinquish her right of dower in any real estate, and acknowledge the same in Court, or before any Judge of the Court of Common Pleas, Clerk of Court, Trial Justice, Notary Public, or a Commissioner, or Commissioners, and such acknowledgment shall be recorded, the same shall be effectual in law, to convey and pass away the right of such *feme covert*, although she has not executed or acknowledged any deed of conveyance for that purpose.

Dower may be released by formal acknowledgment.

1731, III, 303, § 29; 1767, VII, 197, §7; 1785, VII, 233, § 46; 1871, XIV, 538, § 4.

2 Brev., 98; 3 Brev., 80; Rice Eq., 158; 2 Hill Eq., 250; 14 Rich. Eq., 280.

SEC. 2. That all deeds or other conveyances made in writing, under the hand and seal of husband and wife, and by them personally acknowledged before any duly qualified officer, (the wife being first examined separately and apart from her husband by such officer, and giving her free consent to the same,) shall be good and effectual in law to pass and convey all the estate, title and interest of such wife and her heirs.

How relinquished by conveyance.

1785, VII, 233, § 16

Wife may renounce her dower.

1795, V. 256, § 2. 1 Bail., 421; 1 Bay, 307.

SEC. 3. That the wife of any grantor conveying real estate by deed of release, may, if she be of lawful age, release, renounce, and bar herself of, her dower, in all the premises so conveyed, by going before any duly authorized officer of the County wherein she may reside, or the land may be, and acknowledge before him, upon a private and separate examination, that she did freely and voluntarily, without any compulsion, dread or fear of any person whomsoever, renounce and release her dower to the grantee, and his heirs and assigns, in the premises mentioned in such deed.

Certificate of renunciation to be endorsed on release.

Ib.

SEC. 4. That a certificate, under the hand of the woman, and the hand and seal of the officer aforesaid, shall be endorsed upon such release, or a separate instrument of writing to the same effect, in the form, or to the purport, hereafter following, and be recorded in the office of Register of Mesne Conveyances in the County where the land lies:

"THE STATE OF SOUTH CAROLINA,

"—— ——— County.

Form of certificate.

"I, F. G., (———, Judge, Trial Justice, or other officer, as the case may be,) do hereby certify unto all whom it may concern, that E. B., the wife of the within named A. B., did, this day, appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear, of any person or persons whomsoever, renounce, release, and for ever relinquish unto the within named C. D., his heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to, all and singular the premises within mentioned and released.

"GIVEN under my hand and seal, this ——— day of ———, Anno Domini ——.

(Signed) E—— B——.

[*L.S.*] F—— G——."

Wife may release her inheritance.

Ib., 257, § 3. 2 McC. Eq., 137; 11 Rich., 118.

SEC. 5. That every married woman, of the age of twenty-one years, who may be entitled to any real estate as her inheritance, and may be desirous of joining her husband in conveying away the fee simple of the same to any other person, may bar herself of her inheritance in such real estate, by joining with her husband in a release to the purport of the one prescribed in Section 3 of this Chapter: *Provided*, She will go before some duly authorized officer, at any time after the expiration of seven days after such release has been duly executed as aforesaid, and will then, upon a private and separate examination by him, declare to him that she did, at least seven days before such examination, actually join her husband in executing such release, and did then, and, at the time of her examination, still does, freely, voluntarily, and, without any manner of compulsion, dread or fear, of any person or persons whomsoever, renounce, release, and forever relinquish, all her estate, interest and inheritance in the premises mentioned in the release, unto the grantee, and his heirs and assigns.

SEC. 6. That a certificate, signed by the woman, and under the hand and seal of any of the officers aforesaid, shall then be immediately endorsed upon the said release, or a separate instrument of writing to the same effect, in the form or to the purport of the certificate prescribed in Section 4 of this Chapter; to which certificate an addition to the following effect shall invariably be made, to wit: That the woman did declare that the release was positively and *bona fide* executed at least seven days before such her examination.

Certificate to be endorsed on release.
Ib.

SEC. 7. Such renunciation shall not be considered as being complete or legal, until the same shall be recorded in the office of the Register of Mesne Conveyances, in the County where the land lies.

Not legal until recorded.
Ib.

SEC. 8. All deeds and conveyances made prior to the 20th day of August, 1731, where the wife has joined with her husband in the conveying of any lands and tenements which were the estate or inheritance of the wife, or for the barring of her dower and thirds, shall be deemed good and effectual in the law, to all intents and purposes, to bar such *feme covert* and her heirs of such estate as therein is expressed, so that the right were in such *feme covert* at the time of making such conveyance, and for the barring of her dower and thirds, where any such estate might accrue to her after the decease of her husband, unless it shall hereafter appear that such *feme covert* was under some restraint or force at the time of doing thereof.

Feme coverts' conveyances made prior to August 20, 1731, legal unless made under restraint or force.
1731, III, 303, 29.

SEC. 9. That all *feme coverts*, who, before the twenty-eighth day of March, 1778, joined with their husbands in the conveying of their estates, or for the barring of their dower and thirds of any lands and tenements, and were privately examined before the Governor or Chief Justice, or any Justice of the Court of Pleas, or before any Commissioners thereto, authorized by the Governor, Chief Justice, or assistant Judges of this State, and acknowledged that they did freely join with their said husbands in conveying such their estates and releasing their right thereto, and the same were certified by the said Chief Justice or Justices, and recorded in the office of Pleas in this State, shall and are hereby declared to be effectually barred of their right of, in and to such lands and tenements, from the time of acknowledging the same.

Made prior to March 8, 1778, and certified by proper officer, valid from time of acknowledgment.
Ib.; 1767, VII, 196, 7; 1778, IV, 430, § 10.
1 N. & McC., 469.

SEC. 10. That the persons claiming under such conveyances as are mentioned in the two preceding Sections, shall and may hold such lands and tenements against all persons whatsoever, for such terms and estates as were mentioned in such coveyance, where the rights were in such *feme coverts* at the time of executing such conveyances, or her acknowledging or passing away the same in manner as aforesaid, and for the barring of her dower and thirds, where any right of dower or thirds might accrue to her after the decease of her husband.

Confirmation of titles under such conveyances.
1731, III, 303, § 29.

If a wife elope she shall forfeit her dower.

13 Ed. 1, c. 34, 1712, 11, 422. 1 Bail., 312.

SEC. 11. If a wife willingly leave her husband, and go away, and continue with her advoutrer, she shall be barred forever of action to demand her dower that she ought to have of her husband's lands if she be convict thereupon, except that her husband willingly reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

Wife having jointure not to have dower

27 H. 8, c. 10; 1712, 11, 169, § 6. Co. pl. 1. 17; 172; Co 1 4. 1. 1, &c: Dyer f. 6, 97, 228, 248, 296, 317, 340; Co. Inst 36 b.

SEC. 12. Every married woman having jointure shall not claim, nor have title to have any dower of the residue of the lands, tenements or hereditaments, that at any time were her said husband's, by whom she hath any such jointure, nor shall demand or claim her dower of and against them that have the lands and inheritances of her said husband.

Having no jointure to have dower at common law.

Ib. 5 Rich., 525; 10 Rich., 157; 11 Rich., 4 7

SEC. 13. If she have no such jointure, then she shall be admitted and enabled to pursue, have and demand her dower, after the due course and order of the common law, any law or provision made to the contrary thereof notwithstanding.

A woman shall be endowed whose jointure is recovered.

Ib., 7 Moor., 717.

SEC. 14. If any such woman be lawfully expelled or evicted from her said jointure, or from any part thereof, without any fraud or covin, by lawful entry, action, or by discontinuance of her husband, then every such woman shall be endowed of as much of the residue of her husband's tenements or hereditments, whereof she was before dowable, as the same lands and tenements so evicted and expelled shall amount or extend unto.

Jointure after marriage may be taken or refused by the wife.

Ib., § 2. Co. 1 3. 1. 27; Moor., 721.

SEC. 15. If any wife have, or hereafter shall have, any lands, tenements or hereditaments unto her given and assured after marriage, for term of her life, ortherwise in jointure, except the same assurance be to her made by Act of the General Assembly, and the said wife after that fortune do over-live her said husband in whose time the said jointure was made or assured unto her, the same wife so over-living shall and may, at her liberty, after the death of her said husband, refuse to have and take the lands and tenements so to her given, appointed or assured during the coverture, for term of her life, or otherwise in jointure, except the same assurance be to her made by Act of the General Assembly, as is aforesaid.

On refusing jointure, she may demand dower at common law.

Ib.

SEC. 16. Upon the refusal of any wife to have and take the lands and tenements given, appointed and assured to her by jointure as aforesaid, she may have, ask, demand and take her dower according to the common law, of and in all such lands, tenements and hereditaments as her husband was and stood seized of any state of inheritance at any time during the coverture; any thing contained herein to the contrary notwithstanding.

CHAPTER LXXXIV.

Of Estates for Life, for Years, and at Will; and General Provisions Concerning Real Estate.

SEC.

Tenancy for Life, for Years, and at Will.

1. Leases for more than one year to be recorded in three months.
2. When and how leases shall terminate.
3. No parol lease valid for more than a year.
4. How rent recovered, if tenant for life die before it is payable.
5. Proportion to be paid.
6. Under tenant to have possession until crop is secured.
7. Rents, how recovered, where the demises are by deed.
8. Provision for landlords where tenants desert the premises.
9. Ejectment of tenant for non-payment of arrears of rent.
10. Tenant may appeal.
11. Penalty on tenants for continuing in possession three months after demand of possession.
12. Ejectment of tenants at will, domestic servants, &c.
13. Penalty for not delivering possession in accordance with notice of intention to quit.
14. Tenant not to make alterations without permission.
15. Distress for non-payment of rent abolished.
16. Assessment of damages for trespass or waste.
17. Lands in dispute, surveyors to be appointed.
18. Court to nominate surveyors, if parties refuse.

Right of Denizens to Hold Real Property.

19. Who may become denizens; how; may hold property, &c., as citizens.

Warranty by Tenant for Life.

20. Warranty by tenant for life void.
21. Collateral warranties void against heir.

Easements.

22. Party walls in towns.
23. Each owner to pay half expense.

Tenancy for Life, for Years, and at Will.

SECTION 1. That all leases or contracts in writing, hereafter to be made between landlord and tenant, for a longer term than twelve months, shall not be valid in law, against the rights and claims of third persons, unless the same shall have been recorded in the office of the Register of Mesne Conveyances, at least within three months from the time of the execution thereof; nor shall any payment made in anticipation of rent, for a longer period than twelve months, be considered a valid discount against the claims and rights of third persons.

Leases for more than one year to be recorded in three months.

1817, VI, 67, § 1. 1 Bail., 315; 4 McC., 49; 8 Rich., 222.

SEC. 2. Every lease or written agreement hereafter to be entered into, for the renting and leasing of lands and tenements, shall absolutely and unequivocally end and determine at the period therein stated, without it being obligatory on the tenant or the landlord to give the notice required by law.

How and when to terminate.

Ib., § 2.

SEC. 3. No parol lease shall give a tenant a right of possession for a longer term than twelve months from the time of entering on the premises; and all such leases shall be understood to be for one year, unless it be stipulated to be for a shorter term.

No parol leases valid for more than a year.

Ib., § 3; (Chap. XCVIII, § 1.) 2 Rich., 346; 5 Strob., 29.

SEC. 4. Where any tenant for life shall happen to die before or on the day on which any rent was reserved or made payable upon any demise or lease of any lands, tenements or hereditaments, which determined on the death of such tenant for life, the executors or administrators of such tenant for life shall and may recover of and from such under-tenant or under-tenants of such lands, tenements or hereditaments, the rent thereof as prescribed in the next Section.

How rent recovered if tenant for life die before it is payable.

11 G., 2, c. 19, II, 577, § 15.

Proportion to be paid.
Ib.

SEC. 5. If such tenant for life die on the day on which the rent was made payable, the whole, or if before such day, then a proportion of such rent, according to the time such tenant for life lived of the last year or quarter of a year, or other time in which the said rent was growing due as aforesaid, making all just allowances, or a proportionable part thereof respectively.

Under-tenant to have possession until crop secured.
1789, V, 111, 23.

SEC. 6. If any person shall rent or hire lands of a tenant for life, and such tenant for life dies, the person hiring such land shall not be dispossessed until the crop of that year is finished, he or she securing the payment of the rent when due.

Rents, how to be recovered, where the demises are not by deed.
11 G. 2, c. 19, II, 576, § 11.

SEC. 7. That it shall and may be lawful to and for any landlord or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements or hereditaments held or occupied by a tenant or tenants, in an action for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action any parol demise, or any agreement (not being by deed,) whereon a certain rent was reserved, shall appear, the plaintiff in such action shall not therefore be non-suited, but may make use thereof as an evidence of the amount of the damages to be recovered.

Provision for landlords, where tenants desert the premises.
Ib., 577, § 16.

SEC. 8. If any tenant holding any lands, tenements or hereditaments, or where the rent reserved shall be full three-fourths of the yearly value of the demised premises, who shall be in arrear for one year's rent, shall desert the demised premises, and leave the same uncultivated or unoccupied, it shall and may be lawful to and for two or more Trial Justices of the County, (having no interest in the demised premises,) at the request of the lessor or landlord, or his, her or their bailiff or receiver, to go upon and view the same, and to affix, or cause to be affixed, on the most notorious part of the premises, notice in writing, what day (at the distance of fourteen days at least) they will return to take a second view thereof.

Ejectment of tenants for non-payment of arrears of rent.
Ib.

SEC. 9. If, upon such second view, the tenant, or some person on his or her behalf, shall not appear and pay the rent in arrear, then the said Justices may put the landlord or landlords, lessor or lessors, into the possession of the said demised premises; and the lease thereof to such tenant, as to any demise therein contained only, shall from thenceforth become void.

Tenants may appeal.
Ib., § 17.

SEC. 10. Such proceedings of the said Justices shall be examinable in a summary way, by the Courts of Common Pleas of the respective Counties in which such lands or premises lie, which Courts are impowered to order restitution to be made to such tenant, together with his or her expenses and costs, to be paid by the lessor or landlord, if they shall see cause, for the same; and in case they shall affirm the act of the said Justices, to award costs, not exceeding twenty-five dollars, for the frivolous appeal.

SEC. 11. All tenants, whether for life or years, by sufferance or at will, or persons coming in under or by collusion with them, who shall hold over after the legal determination of their estates, after demand made in writing for delivering possession thereof by the person having the reversion or remainder therein, or his agent, such tenant or other person holding over for the space of three months after such demand shall forfeit double the value of the use of the premises, recoverable by action.

Penalty on tenants for continuing in possession 3 months after demand of possession.
1808, V, § 5, 3. d Bail., 497.

SEC. 12 That when any person or persons have gone, or shall hereafter go, into possession of any land or tenements of another, either as a tenant at will, or under a contract to serve another, either as a domestic servant or common laborer, or otherwise, and shall refuse or neglect to quit the premises, so occupied, when required by the person letting the same, or upon the termination of the contract, either by its own limitation or from any other cause, it shall be lawful for the person letting the premises to apply to any Trial Justice, whose duty it shall be to have a notice served upon the person or persons so refusing to quit, to show cause before him, at the expiration of ten days from the personal service of such notice, why he should not be ejected, and if no sufficient cause be then shown, it shall be the duty of the Trial Justice forthwith to issue his warrant, directed to the Sheriff or any Constable, requiring him, without delay, to eject such person or persons from the premises so let, and authorizing him to use such force as may necessary.

Ejectment of tenants at will, domestic servants, &c.
1836, XIII, 416, § 1.

SEC. 13. In case any tenant shall give notice in writing, of his intention to quit the premises rented by him, and shall not accordingly deliver up the possession at the time in such notice contained, the said tenant, his executors or administrators, shall pay to the landlord double the rent which he would otherwise have been liable to pay: *Provided, nevertheless,* That nothing herein contained shall be construed to give such tenant a right to discontinue or determine his tenancy by such notice, in any other manner than according to the laws of force at the time of giving the same.

Penalty for not delivering possession in accordance with notice of intention to quit.
Proviso.
II, 578, § 18; 1808, V, 505, § 4.

SEC. 14. It shall not be lawful for any tenant to make alterations or remove buildings erected upon the leased premises, without permission first had in writing, under pain of forfeiting the residue of the unexpired term of said lease or agreement, parol or written; which said forfeiture shall be ascertained by a Trial Justice, with the jurors to be drawn in the same manner as is prescribed by Section twenty-five of Chapter XXV of this Act, and with like powers where the landlord is to be placed in possession.

Tenant not allowed to make alterations.
1817, VI, 68, § 8; 1839, XI, 31, § 23.

SEC. 15. Distress for non-payment of rent, as heretofore existing, is abolished.

Distress abolished.
1838, XIV, 106, § 20.

SEC. 16. In case any action shall be brought for a trespass or waste committed in the plaintiff's land or tenements, the Judge of the Court

Assessment of damages

for trespass or waste.
1722, VII, 177, § 2.

having jurisdiction of such action shall have power to appoint one or more sufficient persons to view the said trespass or waste, if need be, who shall return an account thereof on oath, at the next Court, and the true value of the damages occasioned by such trespass and waste, and the same shall be allowed as evidence, if the Court shall see fit; any law, custom or usage to the contrary thereof in anywise notwithstanding.

Lands in dispute, surveyors to be appointed.
Ib.

SEC. 17. If any cause be depending in the Circuit Courts or within the jurisdiction of the same, wherein the titles or boundaries of lands or plantations shall be brought into dispute, the Judge of the said Court shall appoint surveyors, at the nomination of the parties, to survey the same at the charge of the said parties, and to return such survey on oath, at the next sitting of the said Court.

Court to nominate surveyors if parties refuse.
Ib.

SEC. 18. In case either of the parties shall refuse to nominate a surveyor duly sworn and qualified, then the said Court shall proceed to nominate two or more such surveyors as they shall think fit, in order for the better finding out and discovering the truth of the said matter in difference, and, if the Court shall acquiesce in the return of the surveyors so given in on oath, as aforesaid, the same shall be allowed as evidence.

Right of Denizens to Hold Real Property.

Who may become denizens; how; may hold property, &c., as citizens
1799 V, 355, § 1; I Strob. Eq., 295.

SEC. 19. That all persons, not naturalized, (alien enemies and fugitives from justice excepted,) who now are, or hereafter shall become, residents in this State, shall, on taking and subscribing the oath or affirmation of allegiance before one of the Judges of the Court of Common Pleas, be deemed denizens, so as to enable such persons to purchase and hold real property within this State, and in all other respects to entitle such person to the like protection from the laws of this State as citizens are entitled to.

Warranty by Tenant for Life.

Void.
4 Ann, c. 16, 1712 II, 437, § 21.

SEC. 20. That all warranties which shall be made by any tenant for life, of any lands, tenements, or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void and of none effect.

Collateral warranties void against heir
Ib.

SEC. 21. All collateral warranties, which shall be made of any lands, tenements or hereditaments, by any ancestor who has no estate of inheritance in possession in the same, shall be void against his heir.

Easements.

Party walls in towns.
1793, VII, 58, § 2. Amended by Com'rs.

SEC. 22. That every person who shall erect, in a city or town, any building with brick, shall have liberty to set half his partition wall in his next neighbor's ground, provided he leave a toothing in the corner of such wall for his neighbor to adjoin unto.

SEC. 23. When the owner of such adjoining land shall build, he shall pay for one-half of the said partition wall, so far as he makes use of the same.

Each owner to pay half expense.
Ib.

TITLE II.

CHAPTER LXXXV.

OF TITLE TO REAL PROPERTY BY DESCENT.

SEC.
1. Right of primogeniture abolished.
2. Distribution of property—
   1. When intestate leaves widow and children;
   2. When there are no lineal descendants;
   3. When there are neither wife, children, nor lineal descendants;
   4 Brothers, &c., to be of the whole blood;
   5. When there are neither lineal descendants, parents, or brothers or sisters of whole blood;
   6. When widow to take one moiety and ancestor another;
   7. When widow takes two-thirds; disposition of residue;
   8. If there be no widow;
   9. Degrees of kindred, how reckoned;
   10. Husband of intestate *feme cover* to receive same as widow;
   11. When married woman leaves no husband;
   12. When husband or wife inherit the whole of the other's estate.
3. Lineal descendants to represent parents.
4. A posthumous child shall take as though born in the lifetime of the father.
5. Citizens may inherit through alien ancestors.
6. Alien widows.
7. Property to be equally divided; portions advanced by intestate to be deducted.
8. Property not mentioned in will.
9. Distribution of a joint tenancy.
10. Provision for widows of intestates to be in lieu of dower.
11. Forfeiture of estate of a woman consenting to an unlawful marriage contract.

Primogeniture.
1791, V, 162, § 1.
2 Rich. Eq., 412.

SECTION 1. That the right of primogeniture be, and the same is hereby, abolished.

Distribution of property.
Ib.
4 Rich. Eq., 413.
(r 2, II, 744.)

SEC. 2. That when any person possessed of, interested in, or entitled to a real estate in his or her own right in fee simple, shall die without disposing thereof by will, the same shall be distributed in the following manner:

When intestate leaves widow and children.
Ib.

1. If the intestate shall leave a widow and one or more children, the widow shall take one-third of the said estate, and the remainder shall be divided between the children, if more than one, but if only one, the remainder of the estate shall be vested in that one absolutely forever.

When there are no lineal descendants.
Ib., ¶¶ 3, 4.
1851, XII, 80, § 1.
2 McC. Ch., 351.

2. If the intestate shall leave no lineal descendants, but shall leave a widow, and a father or mother, and brothers and sisters, or brother or sister, of the whole blood, the estate, real and personal, of such intestate, shall be distributed in the following manner, that is to say: The widow shall be entitled to one moiety of the said estate, and the other moiety shall be equally divided amongst the father, or, if he be dead, the mother and the brothers and sisters of the whole blood. The children of a deceased brother or sister shall take among them respectively the share which their respective ancestors would have been entitled to had they survived the intestate: *Provided*, That there be no representations admitted among collaterals after brothers' and sisters' children.

Proviso.
22 & 23 C. 2, c. 10; 1712, II, 524, § 7
2 Bay., 293; Dudley's Eq., 212.

Where there are neither wife, children or lineal descendants.
1 J. 2, c 17, 1712, II, 530, § 7; 1797, V, 305, 1. 4 DeS. Eq., 105; 1 McC., 161, 456; 2 McC. Ch., 403.

3. If the intestate shall leave neither wife, child or children, or lineal descendant, but shall leave a father or mother, and brothers and sisters, or brother and sister, or brother, or sister, one or more, the estate, real and personal, of such intestate shall be equally divided amongst the father, or, if he be dead, the mother and such brothers and sisters as may be living at the time of the death of such intestate, so that such father or mother, as the case may be, and each brother and sister so left living by the intestate, shall each take an equal share of his estate real and personal.

Brothers, &c., to be of the whole blood.
1851, XII, 81, § 2.

4. The brothers and sisters mentioned in the preceding sub-division shall be taken and understood, and they are hereby declared to be, brothers and sisters of the whole blood.

When there are neither lineal descendants, parents, or brother or sister of whole blood.
1791, V, 162, § 1. 5 Rich. Eq., 509.

5. If the intestate shall leave no lineal descendant, father, mother, brother or sister of the whole blood, but shall leave a widow, and a brother or sister of the half blood, and a child or children of a brother or sister of the whole blood, the widow shall take one moiety of the estate, and the other moiety shall be equally divided between the brothers and sisters of the half blood and the children of the brothers and sisters of the whole blood; the children of every deceased brother or sister of the whole blood taking among them a share equal to the share of a brother or sister of the half blood. But if there be no brother or sister of the half blood, then a moiety of the estate shall descend to the child or children of the deceased brother or sister; and if there be no child of a deceased brother or sister of the whole blood, then the said moiety shall descend to the brothers and sisters of the half blood.

When widow takes one moiety and ancestor another.
Ib., 163.

6. If the intestate shall leave no lineal descendant, father, mother, brother or sister of the whole blood, or their children, or brother or sister of the half blood, then the widow shall take one moiety, and the lineal ancestor or ancestors, if any there be, the other moiety.

When widow takes two-thirds; disposition of residue.
Ib.

7. If the intestate shall leave no lineal descendant, father, mother, brother or sister of the whole blood, or their children, or brother or sister of the half blood, or lineal ancestor, then the widow shall take two-thirds of the estate, and the remainder shall descend to the next of kin.

If there be no widow.
Ib.

8. If the intestate shall leave no widow, the provision made for her shall go as the rest of his estate is directed to be distributed in the respective clauses in which the widow is provided for.

Degrees, how reckoned.
Ib.

9. In reckoning the degrees of kindred, the computation shall begin with the intestate, and be continued up to the common ancestor, and thence down to the person claiming kindred, inclusively, each step inclusively being reckoned as one degree.

Husband of intestate *feme covert* to receive same share as widows.
Ib. Con., Art 14, § 8. 3 DeS. Eq., 135.

10. On the death of any married woman intestate, the husband shall be entitled to the same share of her real estate as is herein given to the widow out of the estate of the husband, and the remainder of her real estate shall be distributed among her descendants and relations, in the same manner as is heretofore directed in case of the intestacy of a married man.

11. If the intestate shall leave no husband, the provision herein made for him shall go as the rest of her estate is directed to be distributed in the preceding clauses.

Where married woman leaves no husband.
1823, VI, 285, § 2.

12. If any married person shall die without leaving a lineal descendant, father, mother, brother or sister, of the whole blood, or their children, or brother or sister of the half blood, or lineal ancestor or next of kin, then the wife shall inherit from the husband, and the husband from the wife, the whole of the real and personal estate the other died possessed of, was interested in, or entitled unto.

When husband or wife inherits the whole of the other's estate.
1797, V, 49, § 14; 1826, VI, 284, §§ 1, 2

SEC. 3. The lineal descendants of the intestate shall represent their respective parents, and be entitled to receive and divide equally among them the shares to which their parents would respectively have been entitled had they survived the ancestor.

Lineal descendants to represent parents
1791, V, 162, § 1, § 2.

SEC. 4. A posthumous child shall take under any will or settlement as though born in the lifetime of the father, and shall not be liable to be defeated on the ground that the remainder was contingent, and did not vest at the instant that the prior estate terminated, and that there was no trustee to preserve the contingent remainder.

Posthumous child takes as though born in lifetime of the father.
10 & 11 W. 3, c. 16; 1712, II, 542.

SEC. 5. Every natural born citizen may inherit, or be inheritable, although the father and mother or other ancestors through whom he shall make or derive his title were aliens.

Citizens may inherit through alien ancestors.
11 & 12 W. 3, c. 6; 1712, 542.

SEC. 6. If any citizen of the United States shall die seized, possessed of, or interested in, any land or real property situated and being within this State, and leave a widow born without the limits of the United States, and who has not been naturalized, such widow shall be entitled to all the same rights, interest and estate in and to such land and real property, and be possessed of the same powers, privileges, and capacities to hold, enjoy, convey and transmit the same, as if she were naturalized.

Alien widows.
1828, VI, 363, § 1; 1856, XII, 585.
7 Rich., 345; 8 Rich. Eq., 58.

SEC. 7. Nothing herein contained shall be construed to give to any child or issue (or his or her legal representatives) of the intestate, a share of his or her ancestor's estate where such child or issue shall have been advanced by the intestate in his lifetime, by portions or portion equal to the share which shall be allotted to the other children. But in case any child, or the issue of any child, who shall have been so advanced, shall not have received a portion equal to the share which shall be due to the other children, (the value of which portion being estimated at the death of the ancestor, but so as that neither the improvements of the real estate by such child or children, nor the increase of the personal property, shall be taken into the computation,) then so much of the estate of the intestate shall be distributed to such child or issue as shall make the estate of all the children to be equal.

Property to be equally divided; portions advanced by intestate to be deducted.
22 & 23 C. 2, c. 10; 1792, II, 524, § 5; 1799, V, 163, § 3.
1 P. Wms., 28-9; 1 Shower, 25; 4 Strob. Eq., 124; 5 Rich. Eq., 15; 12 Rich. Eq., 410; 14 Rich. Eq., 105; 4 DeS. Eq., 434; 1 Hill Ch., 11.

SEC. 8. Lands and personal property which shall be purchased or otherwise acquired by any person after the making of his or her will shall pass thereby, and no person shall be considered as having died intestate, as to the said lands and personal estate.

Property not mentioned in a will.
Ib., § 4; 1808, V, 573, § 2; 1858, XII, 700, § 1.
(See Petigru's Code, 58, n 1)
9 Rich. Eq., 129.

Distribution of a joint tenancy.

179, V, 163, 5 2 Hill Ch., 635.

SEC. 9. Where any person shall be, at the time of his or her death, seized or possessed of any estate in joint tenancy, the same shall be adjudged to be severed by the death of the joint tenant, and shall be distributable as if the same were a tenancy in common.

Provisions for widows of intestates to be in lieu of dower.

Ib., 8.

1 Bre., 427, n 10; 2 McC. Ch., 259; 3 Rich. Eq., 285.

Amended by Com'rs.

(Suggested by Petigru, p. 517.)

SEC. 10. In all cases where provision is made by this Chapter for the widow of a person dying intestate, the same shall, if accepted, be considered as in lieu of, and in bar of dower; and if she shall have forfeited her dower, she shall also forfeit her distributory share of her husband's real estate.

Forfeiture of estate of a woman consenting to an unlawful contract of matrimony; to whom forfeited estate shall descend.

4 & 5 P. & M., c. 8; 1712, II, 486, 6.

3 Mod., 84; 2 Bay., 418; 1 Bail., 144; 5 Strob., 1.

SEC. 11. If any woman child or maiden, being above the age of twelve years, and under the age of sixteen years, do at any time consent or agree to any contract of matrimony, against the will, or unknowing of or to her father, if the father be in life, or against the will or unknowing of her mother (she having the custody or governance of such child,) by secret letters, messages, or otherwise, then the next of the kin of the same woman child or maid, to whom any inheritance should descend, return or come, after the decease of the same woman child and maid, shall, from the time of such consent and agreement, have, hold and enjoy all such lands, tenements and hereditaments, as the same woman child and maiden had in possession, reversion or remainder, at the time of such consent and agreement, during the life of such person that shall so contract matrimony; and after the decease of such person so contracting matrimony, then the said lands, tenements and hereditaments shall descend, revert, remain, and come to such person or persons as they should have done in case this Section had never been had or made, other than to him only that shall contract matrimony with such woman child or maiden, as aforesaid.

TITLE III.

CHAPTER LXXXVI.

OF WILLS.

SEC.
1. Who may devise; persons incapacitated to devise their lands.
2. Devises shall be in writing, attested by three or more witnesses.
3. Estates *pur autre vie* devisable, shall be assets in owner's hands, &c.
4. Devises of crops on lands.
5. Subscribing witness not to be incompetent because of interest.
6. Creditor may attest the execution of a will or codicil charging lands, &c., with his debt.
7. Devises to be revoked only by writing or by being destroyed by testator.
8. Marriage a revocation, unless the will contain provisions for future wife and children.
9. Words of limitation unnecessary to convey a fee by devise.
10. Construction of term "failure of issue" in deeds and wills.
11. Posthumous children to receive an equal share.
12. Provision for children born after the will and before death of testator.
13. Share of child dying in lifetime of parents.
14. Certain legacies declared void.

SEC.
15. Wills fraudulent as against creditors; proviso.
16. Wills, where proved.
17. Will of, *feme covert* made in execution of power.
18. Wills, how proved:
1. Common form;
2. One form of law.
19. Place of signatures of subscribing witnesses.
20. Executor believe affirmative of issue—will or no will.
21. Refusal to deliver a will for probate, how punished.
22. Exemplified copies of wills may be given in evidence; proviso.
23. Foreign probates admitted to probate upon exemplification and certificate; proviso.

Nuncupative Wills.

24. Nuncupative wills exceeding fifty dollars to be proved by three witnesses.
25. Time of proving.
26. Competency of witnesses.
27. Kindred to be cited, that they may contest.
28. Soldiers' and mariners' wills.

SECTION 1. That any person having right or title to any lands, tenements, or hereditaments whatsoever, persons of unsound mind and infants excepted,) may dispose thereof by will, in writing, at his or her own free will and pleasure, except as hereinafter provided; but all wills or testaments made of any lands, tenements or other hereditaments, by any person within the age of twenty-one years, idiot, or by any person *de non sane* memory, shall not be taken to be good or effectual in law.

Who may devise; persons incapacitated to devise their lands.

34 & 35 H. 8, c. 5; 17 2, II, 551, §§ 3-14; 1733, III, 342, 2; 1789, V, 106, § 2. Con., Art 14, § 8. 2 N & McC., 531; 1 McC., 320,

1 McCord, 225, 477; 1 Bail., 92; 3 Hill, 68; Cheves, 37; 2 Spears, 230; 5 Rich., 212; 7 Rich., 474; 3 Strob., 397; 11 Rich., 125; 9 Rich. Eq., 111; 6 Co., 23; Dyer, 354; Hob., 225.

SEC. 2. All wills and testaments of real and personal property shall be in writing, and signed by the party so devising the same, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said devisor by three or more credible witnesses, or else they shall be utterly void and of none effect.

Devises shall be in writing, attested by three or more witnesses.

29 C. 2, c. 3; 1712, II, 526, § 5; 1789, V, 106, § 2; 1824, VI, 28, § 8. 3 Lev., 86;

Carth. 55, 514; 3 Mod., 218, 262; 5 Rich., 1; 3 Strob., 97; 3 McC., 491; 4 McC., 39; 2 Bail., 24; 3 Hill, 68; 1 Spears, 253; 12 Rich., 4.

SEC. 3. Any estate for the life of another shall be devisable by a will in writing, signed by the party so devising the same, or by some other person in his presence and by his express directions, attested and subscribed in the presence of the devisor by three or more witnesses; and if no such devise thereof be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee simple; and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

Estates *pur auter vie* devisable; shall be assets in heir's hands, &c.

29 C. 2, c. 3; 1712, II, 527, § 12. Carthew, 376; 2 Salk., 464; 2 Vern., 739, c. 67; 12 Rich. Eq., 451

SEC. 4. Any widow may bequeath by will the crop or crops standing or growing on the grounds of her dower, or on other lands planted for her use; and a parson may, by will, bequeath the crop or crops growing or standing on his glebe land.

Devises of crops on lands

1733, III, 342, § 4.

SEC. 5. No subscribing witness to any will, testament or codicil shall be held incompetent to attest or prove the same by reason of any devise, legacy or bequest therein in favor of such witness, or the husband or wife of such witness, or by reason of any appointment therein of such witness, or the husband or wife of such witness, to any office, trust, or duty; and such devise, legacy or bequest, shall be valid and effectual, if otherwise so, except so far as the property, estate or interest so devised or bequeathed shall exceed in value any property, estate or interest to which such witness, or the husband or wife of such witness, would be entitled

Subscribing witness not incompetent because of interest.

1865, XIII, 312, § 1.

upon the failure to establish such will, testament or codicil; but, to the extent of such excess, the said devise, legacy or bequest, shall be null and void; and such appointment shall be valid, if otherwise so, but the person or persons so appointed shall not, in such case, be entitled by law to take or receive any commissions or other compensation on account thereof.

Creditor may attest execution charging lands, &c, with his debt.

25 G. 2, c. 6; II, 580, § 2.

SEC. 6. In case by any will or codicil any lands, tenements or hereditaments, shall be charged with any debt or debts, and any creditor whose debt is so charged, shall attest the execution of such will or codicil, every such creditor, notwithstanding such charge, shall be admitted as a witness to the execution of such will or codicil.

Devises to be revoked in writing, or destroyed.

29 C. 2, c. 3; 1712, II, 536, § 6; 1789; V, 107, § 3; 1824, VI, 238, § 9. 3 Mod., 260, 1 Bay., 457; 2 N. & McC., 272. Harper, 354; 3 McC., 282; 2 Rich, 84; 13 Rich., 66.

SEC. 7. No will or testament, in writing, of any real or personal property, or any clause thereof, shall be revocable but by some other will or codicil in writing, or other writing declaring the same, attested and subscribed by three witnesses as aforesaid, or by destroying or obliterating the same by the testator himself, or some other person in his presence, and by his directions and consent.

Marriage a revocation unless will contain provision for future wife and children.

Altered.

1789,, V, 107, § 10.

SEC. 8. If any person making a will shall afterwards marry, and die leaving his widow or leaving issue, unless the will shall have been made in contemplation of marriage expressed on its face, and shall contain a provision for future wife and children, if any, it shall be deemed and taken to be a revocation to all intents and purposes.

Words of limitation.

1824, VI, 237, § 1. 2 McM., 473; 4 McC., 442-476; 11 Rich., 509-489.

SEC. 9. No words or limitation shall be necessary to convey an estate in fee simple, by devise, but every gift of land by devise shall be considered as a gift in fee simple, unless such a construction be inconsistent with the will of the testator, expressed or implied.

Construction of "failure of issue" in deeds and wills.

1855, XII, 298. 11 Rich., 189.

SEC. 10. Whenever in any deed or other instrument in writing, not testamentary, hereafter executed, or in any will of a testator hereafter dying, an estate, either in real or personal property, shall be limited to take effect on the death of any person without heirs of the body, or issue, or issue of the body, or other equivalent words, such words shall not be construed to mean an indefinite failure of issue, but a failure at the time of the death of such person.

Posthumous children to receive an equal share.

1789, V, 107, § 8. 1858, XII, 700, 1. 2 Des. Eq., 559; Bail., Eq., 5; 1 McC., Eq. 55. Dudley Eq., 151; Cheves, 14; 1 Rich. Eq., 11.

SEC. 11. If no provision shall be made by the will of the testator for any child or children that may be born after his death, such child or children shall be entitled to an equal share of all real and personal estates given to the other child or children, who shall contribute to make up such share or shares according to their respective interests or portions deriving to them under such will.

Provision for children born after the will, &c.
1808, V, 57, § .

SEC. 12. Any child or children of any person, which may be born after the making and executing the last will and testament, but previous to the decease of such person, shall be provided for in the same manner as posthumous children are provided for in and by the preceding Section.

Share of child dying in the lifetime of parents.
1789, V, 107, § 9
9 Rich. Eq., 1-7.

SEC. 13. If any child should die in the lifetime of the father or mother, leaving issue, any legacy given in the last will of such father or mother shall go to such issue, unless such deceased child was equally portioned with the other children, by the father or mother, when living.

Certain legacies declared void.
170[illegible], II, [illegible]; 1795, V, 271, § 4. 2 Hill Ch., 6 4; 1 Rich. Eq., 465, 474; 2 Strob. Eq., 175; Rich., 66, 96; 6 Rich. Eq., 10.

SEC. 14. If any person who is an inhabitant of this State, or who has any estate therein, shall beget any bastard child, or shall live in adultery with a woman, the said person having a wife or lawful children of his own living, and shall give, by legacy or devise, for the use and benefit of the said woman with whom he lives in adultery, or of his bastard child or children, any larger or greater proportion of the real clear value of his estate, real or personal, after payment of his debts, than one-fourth part thereof, such legacy or devise shall be null and void for so much of the amount or value thereof as shall or may exceed such fourth part of his real and personal estate.

Wills fraudulent as against creditors.

SEC. 15. All wills and testaments, limitations, dispositions or appointments, of or concerning any lands, tenements, or hereditaments, or of any rent, profit, term, or charge out of the same, whereof any person or persons, at the time of his, her or their decease, shall be seized in fee simple, in possession, reversion or remainder, or have power to dispose of the same, by his, her or their last wills and testaments, shall be deemed and taken (only as against such creditor or creditors as aforesaid, his, her and their heirs, successors, executors, administrators and assigns, and every of them) to be fraudulent, and clearly, absolutely, and utterly void, frustrate, and of none effect; any pretence, color, feigned or presumed consideration, or any other matter or thing to the contrary notwithstanding: *Provided*, That where there has been or shall be any limitation or appointment, devise or disposition, of or concerning any lands tenements or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the heir-at-law, according to, or in pursuance of any marriage contract or agreement in writing *bona fide* made before such marriage, the same and every of them shall be in full force; and the same lands, tenements and hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her and their heirs, executors, administrators and assigns, for whom the said limitation, appointment, devise, or disposition was made, and by his, her and their trustee or trustees, his, her and their heirs, executors, administrators and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions shall be raised, paid and satisfied.

Proviso.
3 & 4 W. & M., c. 14; 1712, II, 5[illegible], §§ [illegible],4; Vin., V, 1[illegible], 5-1.

Wills, where proved.
1789 V, 108, § 12; 1809, XI, 59, 10; 1808, XIV, 77, § 6.

SEC. 16. Wills shall be proved before the Judge of Probate of the County where the testator resided; or, he having no place of residence within the State, in the County where the greater part of his estate may be.

Will of a *feme covert* made in execution of a power.
1833, XIII, 473.

SEC. 17. The probate, before the proper Judge of Probate, of any last will and testament of a *feme covert*, heretofore, or hereafter made in the execution of a power, shall be good, sufficient and effectual in law, in the same manner, and to the same extent as if the testatrix was a *feme sole*, and a devise or bequest under such will shall be admitted in evidence in the same manner, and have the same effect in the Courts of law in this State, as if no coverture existed at the time of the making thereof.

Wills, how proved.

SEC. 18. When a paper is offered before the Judge of Probate as the last will and testament of a person deceased, he may admit it to probate in either of the following forms, that is to say:

Common form.
1809, XI, 59, § 11, 9 Rich. Eq., 46; 10 Rich., 486-505.

1. Without citing or calling before him such as have interest, he may examine one of the subscribing witnesses thereto, or, in case of their death, or their removal from the State, by proof of the hand-writing of the testator or testatrix, and of the subscribing witnesses, or any other secondary evidence admissible and sufficient, by the rules of the common law; and if such proof shall satisfy the Judge of Probate that the paper is the last will and testament of the deceased, he shall admit it to probate in *common form.*

Due form of law.
Ib.
2 Des., 213, 342; 1 N. & McC., 326; 3 Rich., 25; 9 Rich., 1[illegible]; 1[illegible] Rich., 6[illegible].

2. Probate in common form shall be good, unless some person or persons interested to invalidate the said paper as a will, shall give notice to the Judge of Probate, within four years next after such probate, (or, if any party interested therein be subject to the disability of infancy, then, within four years next after such disability removed,) that he, she, or they, do require it to be proved in *due form of law*, which is as follows: The Judge of Probate shall require the party producing the will for probate to prefer a petition in writing, praying to be permitted to swear and examine witnesses upon the same, for the publishing or confirming thereof; and, thereupon, all such persons as would have been entitled to distribution of the estate, if the deceased had died intestate, shall be summoned to answer the petition, in like manner as is provided for the summons of parties to civil actions in the Courts of Common Pleas; whereupon he shall, after swearing all the subscribing witnesses to the same, proceed to examine severally, and to take down in writing such depositions of other witnesses as are made for or against the confirmation of the will, upon all matters touching its legal validity, or formal execution; and in case the proof be sufficient, he shall, by his decree, pronounce for the validity of the will.

Amended by Com'rs to conform to Code of Procedure, Title V.

Proof of signatures of subscribing witnesses.
Ib.

SEC. 19. Upon occasion of proving a will in solemn form, if it appear to the Judge of Probate that the witnesses to the will, or any of them, are dead, or insane, proof of the hand-writing of the witnesses so dead, or insane, and of the hand-writing of the testator, shall be admitted by

the Judge of Probate as *prima facie* evidence that the testator did execute the will in question, in the presence of the witnesses thereto.

SEC. 20. In all trials upon appeals from the Probate Court, in which the question of will or no will is in issue, the executor or parties propounding the will shall be admitted to open the case, and to reply in evidence and argument.

Executor to have affirmative of question of will or no will.
1839, XI, 60, § 13

SEC. 21. If any person having in possession the will of a deceased person shall neglect to produce the same to be proved, the Judge of Probate, in whose office such will ought to be proved, shall have power to issue against him process, as for a contempt, and to imprison him until the will be delivered up; and, upon his continued refusal, he shall be liable to indictment, and, upon conviction, shall be punished as for a high misdemeanor.

Refusal to deliver a will for probate; how punished
Ib., 62, § 16.
9 Rich., 356.

SEC. 22. That in all actions, exemplifications of wills under the hand of the Judge of Probate and seal of the Court in which such will may have been admitted to probate, or under the hand and seal of any other officer who has legal possession of the same, shall be admissible in evidence in any of the Courts of this State, whether the same may regard the title to real or personal property: *Provided*, The party offering such exemplification shall give to the opposite party, or his attorney, at least sixty days' notice of such intention previous to the trial: *And provided, further*, That no devise of real estate shall be admitted as evidence in any cause until after probate, either in common form or in due form of law.

Exemplified copies of wills may be given in evidence.
1823, VI, 209, § 7.
13 Rich., 72; 9 Rich. Eq., 45.

Proviso.
1865, XIII, 312, § 3

SEC. 23. If a will be regularly proved in any foreign Court, an exemplification of such will may be admitted to probate in this State upon the exemplification and certificate of the Judge of the Court of probate; and the exemplification shall also be evidence of the devise of lands in this State, where the title of land comes in question: *Provided*, That if the will be not proved in solemn form, the parties interested against the will shall not be concluded by such probate, but may examine witnesses as to the sanity of the testator, or as to any fraud or imposition practiced upon him in obtaining the will; and the other side may apply for an order to perpetuate testimony in support of the will.

Foreign probates admitted to probate upon exemplification and certificate.
Proviso.
1759, IV, 102, §§ 1, 2.

Nuncupative Wills.

SEC. 24. That no nuncupative will shall be good where the estate thereby bequeathed shall exceed the value of fifty dollars, that is not proved by the oaths of three witnesses at the least, who were present at the making thereof, and by the testator to bear witness that such was his will, or words to that effect; nor unless such will was made in the last sickness of the deceased, in the house or place where he or she shall die.

Nuncupative wills exceeding $50, to be proved by three witnesses.
29 C. 2, c. 3; 1712, II, 528, § 19; 1789, V, 107, § 4.
1 McC., 517.

Time of proving.
1789, V, 107, § 5.

SEC. 25. No testimony shall be admitted to prove any nuncupative will if six months shall have elapsed after speaking the pretended testamentary words, except such testimony or the substance thereof were committed to writing within six days after the making of the said will, and then twelve months shall be allowed, and no more, for the probate of such will.

Competency of witnesses.
4 Ann. c. 16; 1712, II, 435, § 14; 1753, III, 342, § 3.

SEC. 26. All such witnesses as are and ought to be allowed to be good witnesses upon trial at law, by the laws and customs of this State, shall be deemed good witnesses to prove any nuncupative will, or any thing relating thereunto.

Kindred to be cited.
1789, V, 107, § 5.

SEC. 27. No nuncupative will shall at any time be received to be proved, unless process shall have first issued to call in the widow or next of kindred to the deceased, to the end that they may contest the same, if they please.

Soldiers' and mariners' wills.
29 C. 2, c. 3; 1712, II, 529, § 23.

SEC. 28. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his moveables, wages and personal estate, as he or they might have done at common law.

TITLE IV.

OF THE SETTLEMENT OF ESTATES OF DECEASED PERSONS, TRUSTS, AND SPECIAL PROVISIONS RELATING TO TRUSTS AND GUARDIANSHIPS

CHAPTER LXXXVII. *Of Letters Testamentary, and Proceedings on the Probate of Wills.*
LXXXVIII. *Of the Administration and Distribution of Intestates' Estates.*
LXXXIX. *Of Inventories and Appraisements.*
XC. *Of the Payment of Debts and Legacies.*
XCI. *Of the Accounts and Commissions of Executors and Administrators.*
XCII. *Of the Liability of Heirs.*
XCIII. *Of Trusts and Special Provisions relating to Trusts and Guardianships.*

CHAPTER LXXXVII.

Of Letters Testamentary, and Proceedings on the Probate of Wills.

SEC.
1. Letters of administration, with the will annexed, to be granted when no executors qualify.
2. Rules to govern appointment in such cases.
3. Executor or administrator with will annexed, to take oath; form of oath.
4. Administrator with will annexed, to give bond; amount of, how fixed.
5. Condition of bond.
6. Bond to be payable to Judge of Probate.
7. Infirm or distant executors may be qualified by commission, &c.
8. What shall be a sufficient probate of a will of real or mixed property.
9. No letters testamentary, &c., to pass the seal of any Court until fourteen days after testator's death.
10. Persons under twenty-one years of age not to be executors, &c.
11. If debtor be executor, debt not thereby extinguished.

Letters of administration with will annexed to be granted when executors qualify.

1789, V, 107, § 11; 1839, XI, 57, 4; 1855, XII, 533, § 1.
1 Rich. Eq., 449.

SECTION 1. That whenever a deceased person has left a will in writing without having appointed an executor therein, or having appointed one, such executor shall have departed this life without having qualified thereon, or being alive shall have refused to qualify, it shall be the duty of the Judge of Probate in whose Court such will shall have been proved, to grant letters of administration with the will annexed, to such persons as would have been entitled thereto if the deceased had died intestate: *Provided*, Such persons shall take an interest, present or expectant, under such will, equal in value to the distributive share to which they would have been entitled had the deceased died intestate.

Rules to govern appointment in such cases.

Ib.

SEC. 2. In case no one of the distributees at law of such deceased shall take an interest, under such will, equal in value to the interest he would have taken if the deceased had died intestate, then the Judge of Probate shall grant such letters of administration with the will annexed to such persons as shall have the greatest interest in sustaining such will, in the order of their interests. And in case no person taking interests under such will shall apply within three months after the death of the testator, then to the greatest creditor or creditors; and in default of such applying, then to such other persons as may apply therefor.

Executor or administrator with will annexed to take oath; form of oath.

1789, V, 109, § 20.
1 N. & McC., 77.

SEC. 3. Every executor or administrator with the will annexed, at the time of proving the will or the granting of administration, shall take the following oath: "I do solemnly swear that this writing contains the true last will of the within named A. B., deceased, so far as I know or believe; and that I will well and truly execute the same, by paying first the debts and then the legacies contained in the said will, so far as his goods and chattels will thereunto extend and the law charge me, and that I will make a true and perfect inventory of all such goods and chattels: So help me, God."

Administrator with will annexed to give bond; amount of, how fixed.

1855, XII, 403; 1789, V, 109, § 20.

SEC. 4. The administrator with the will annexed shall enter into bond in a penalty double the estimated value of the personal property of the intestate, and shall have two or more good sureties, the aggregate value of whose estates, over and above their indebtedness, shall not be less than the full amount of the penalty of the bond.

Condition of bond.

Ib.

SEC. 5. The condition of the said bond shall be in the following form, to wit: "The condition of this obligation is such that if the above bound C. D., administrator with the will annexed, of the goods, chattels and credits of E. F., deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands or possession or knowledge of the said C. D., or into the hands or possession of any other persons for him, and the same so made do exhibit into the said Court of ——— at such time as he shall be thereunto required by the said Court, and the same goods, chattels and credits do well and truly administer according to law, and make a just and true account of his actings and doings therein when lawfully required; and, further, do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels and credits will extend and the law require, then this obligation to be void, or else to remain in full force."

Bond to be payable to Judge of Probate, &c.

1789, V, 110, 21. (Altered; taken from Petigru, Book II, p. 25.)

2 N. & McC., 214; 2 Bail., 60; 1 McM., 380; 6 Rich., 355; 11 Rich., 544; 3 Rich. Eq., 231; 5 Rich. Eq., 255.

SEC. 6. The said bond shall be made payable to the Judge of Probate of the County and his successors, and may be sued by any person injured by the breach of the condition; and judgment for the penalty shall stand as a security for the amount recovered by the party grieved, and for all others in similar circumstances who may, from time to time, by suggestion on the record, have their damages assessed, until the whole penalty be exhausted.

Infirm or distant executors may be qualified by commission, &c.

1839, XI, 60, § 12.

SEC. 7. When a person appointed executor is infirm, or lives at a great distance from the office of the Judge of Probate, where the will has been proved, the Judge of Probate shall have power to grant a commission to some two or more respectable persons in his neighborhood to administer to him the oaths, and perform the other requisites for granting probate of the will.

What shall be a sufficient probate of a will.

1858, XII, 701, § 3; 1865, XIII, 312, § 3.

SEC. 8. That the probate, in due form of law, by and before the proper Judge of Probate, of any last will and testament, whether the same be of real property exclusively, or of real and personal property mixed, shall be good, sufficient and effectual in law, in the same manner, and to the same extent, as if the said last will and testament were exclusively of personal estate.

No letters, &c., to be granted within 14 days of testator's death.

29 C. 2, c. 3; 17 2, II, 529, § 21.

SEC. 9. No letters testamentary or probate of any nuncupative will shall pass the seal of any Court till fourteen days, at the least, after the decease of the testator be fully expired.

Infants not to be executors.

1824, VI, 237, § 2.

SEC. 10. No executor or executrix shall take upon himself or herself the administration of any will or devise, unless he or she be of the full age of twenty-one years.

SEC. 11. If any person shall, by will, appoint his debtor to be his executor, such appointment shall not, in law or equity, be construed to be a release or extinguishment of the debt, unless the testator shall, in his will, expressly declare his intention to release the same.

Debtor may be executor, &c.
1789, V, 111, § 25.

CHAPTER LXXXVIII.

OF THE ADMINISTRATION AND DISTRIBUTION OF INTESTATES' ESTATES.

SEC.

Administration

1. Letters of administration—to whom granted.
2. Letters to one creditor to be for the benefit of all the other creditors.
3. Payment of debts to be in proportion to assets.
4. On the death of an executor or administrator, letters *de bonis non* to be granted.
5. Administrator to take oath in open Court.
6. Such administrator to give bond with two or more sureties; amount of bond, how determined; form of bond.
7. Bond to be payable to Judge of Probate; how to be sued; penalty if Judge does not take sufficient security.
8. Sureties may petition for relief when in danger of loss.
9. Mode of granting administration; kindred and creditors may be cited; citation, how to be published.
10. Proceedings on alleged loss or destruction of a will.
11. Executors of executors liable for wrongful conversion of goods

Executors in their own Wrong.

12. In what cases a person shall be charged as executor in his own wrong.
13. Executors in their own wrong deemed trespassers, and may be required to make discovery, &c.
14. Liability of executors of executors in their own wrong.

Distribution.

15. Distribution of surplusage of estates.
16. Share of child advanced by portion.
17. No distribution to be made until after one year; if debts afterwards appear distributees to refund proportionably.

Administration.

SECTION 1. That in case any person die intestate, the Judge of Probate of the County where the will of such person, had he left a will, would have been proved, shall grant administration of the goods, chattels, rights and credits of such person deceased, to his or her relations, in the order following, to wit:

Letters of administration, to whom granted.
1789, V, 108, § 16; 1839, XI, 57, § 3.
11 Rich., 569; 2 Hill, 347; Rice, 288; Strob., 335.

1. To the husband or wife of the deceased: *Provided, always*, That if any widow, after having obtained letters of administration, shall marry again, the Judge of Probate shall have power to revoke the administration before granted, or join one or more of the next of kin in the administration with her;

2. If there be no husband or wife of the deceased, or they do not apply, then to the child or children, or their legal representatives;

3. In default of them, then to the father or mother;

4. In default of them, to the brothers and sisters;

5. In default of them, to such of the next of kindred of the deceased, at the discretion of the Judge of Probate, as shall be entitled to a distributive share of the intestate's estate; and,

6. In default of such, to the greatest creditor or creditors, or such other persons as the Court shall appoint.

Letters to one creditor for benefit of all the rest.
1745, III, 667, § 8.

SEC. 2. No letters of administration shall be granted to any person or persons whomsoever, as principal creditor or creditors to any intestate, but upon special trust and confidence, and for the benefit of all the rest of the creditors.

Payment of debts.
Ib.

SEC. 3. All debts of an equal nature shall be discharged by such administrator in average and proportion, as far as the assets of the intestate shall extend, and no preference shall be given among the creditors in equal degree.

On death of an executor or administrator letters *de bonis non* to be granted.
1789, V, 108, § 15; 1839, XI, 58, § 5. 3 McC., 37; 2 Strob. Eq., 196.

SEC. 4. Where an executor shall die intestate, or where an administrator shall die, either not having fully administered, it shall be the duty of the Judge of Probate of the County in which letters testamentary or of administration were first granted, to grant letters of administration of the estate so unadministered.

Administrator to take oath in Court.
1789, V, 110, § 21.

SEC. 5. Every administrator shall, in open Court, when letters of administration are granted him, take the following oath or affirmation, as the case may be, to wit: "I do solemnly swear or affirm, that A. B., deceased, died without any will, as far as I know or believe, and that I will well and truly administer all and singular the goods and chattels, rights and credits, of the said deceased, and pay all his just debts, as far as the same will extend, and the law require me, and that I will make a true and perfect inventory of all the said goods and chattels, rights and credits, and return a just account thereof when thereunto required: So help me God."

To give bond with two or more sureties; amount of bond, how fixed; form of bond.
22 and 23 C. 2, c. 10; 712, II, 523, §§ 1, 2; 17-9, V, 110, § 21; 1 55, XII, 403. 2 Spears, 97; 1 Rich. Eq., 449; 5 Rich Eq., 475; 3 Rich. Eq., 23; Rich. Eq. Ca. 390.

SEC. 6. Such administrator shall also enter into bond, with two or more good sureties, the aggregate value of whose estates, over and above their indebtedness, shall not be less than the full amount of the penalty of the bond, to be approved by the Court, in a sum equal to double the estimated value of the personal property of the intestate, with the condition following: "The condition of the above obligation is such, that if the above bound A. B., administrator of the goods, chattels and credits of C. D., deceased, do make a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of the said A. B., or into the hands or possession of any other person or persons for him, and the same so made do exhibit into the said Court of ————, when he shall be thereto required, and such goods, chattels, and credits do well and truly administer according to law, and do make a just and true account of his actings and doings therein when required by the said Court, and all the rest of the said goods, chattels and credits which shall be found remaining upon the account of the said administration, the same being first allowed by the said Court, shall deliver and pay unto such persons respectively as are entitled to the same by law; and if it shall hereafter appear that any last will and testament was made by the said deceased, and the same be proved in Court, and the executors obtain a certificate of

the probate thereof, and the said A. B. do, in such case, if required, render and deliver up the said letters of administration, then this obligation to be void, otherwise to remain in full force."

Bond payable to Judge of Probate; how sued; penalty if Judge does not take security.

1789, V, 110, § 21. Dudley, 27; 2 Mill., 382; 3 Rich., 224; 6 Rich., 355; 4 Rich., 271; 7 Rich., 26; 6 Rich. Eq., 255; McM. Eq., 435.

SEC. 7. The said bond shall be made payable to the Judge of Probate and his successors, and recorded in his office, in a book to be kept for that purpose, and may be sued in like manner as is prescribed in Section 6, Chapter LXXXVII, of this Act, in the case of bonds given by administrators with the will annexed; and if the Judge of Probate shall fail to take bond and security, as aforesaid, such Judge of Probate shall be liable to be sued for all damages arising from such neglect by any person or persons interested in the estate.

Sureties may petition for relief.

Ib., 111, § 24; 1839, XI, 62, § 19. 3 Strob., 327; 2 Strob., 249; 8 Rich., 331.

SEC. 8. It shall be the duty of the Judge of Probate in whose office an administration bond is lodged upon a petition filed by any of the sureties to the same who conceive themselves in danger of being injured by such suretyship, to summon the administrator before him, and make such order or decree, for the relief of the petitioner, as may not impair or affect the rights of the parties interested in the estate.

Kindred and creditors to be cited: citation, how published.

1839, XI, 58, § 8

SEC. 9. The Judge of Probate shall grant administration in the following manner: After requiring the person or persons applying therefor to file a petition in writing, he shall issue a citation to the kindred or creditors of the intestate or person deceased, to show cause, if any they have, why administration shall not be granted to the person or persons applying therefor, and he shall cause the same to be published on the court house door of the County in which his office is, for two successive weeks, and also by having it printed once a week for two successive weeks after it has been issued in some public gazette, if any be published in the County.

Proceedings on alleged loss or destruction of a will.

Ib., § 6; 1778, IV, 429, § 2.

SEC. 10. If a person applying for letters of administration on the estate and effects of any person deceased will make it appear, upon oath, that such deceased person had made a will, which cannot be proved by such person or persons so applying, and that such person or persons applying for such administration verily believes or believe the said will to be lost or destroyed, together with the causes and reasons for such belief, it shall be the duty of the Judge of Probate to whom such application is made, to grant letters of administration to the person or persons so applying for the same, during such time as the said last will and testament shall be lost, and until the same shall be found and duly proved: *Provided,* That all such oaths as are required in this Section shall be in writing, subscribed by the party to be sworn, administered by the Judge of Probate, and filed and recorded by him.

Executors of executors liable for wrongful conversion of goods.

4 and 5 W. and M., c. 24; 1712, II, 552, § 12. 1 Rich. Eq., 123.

SEC. 11. The executors or administrators of any executor or administrator of right, who may waste or convert to his own use the goods or estate of his testator or intestate, shall be liable and chargeable in the same manner as their testator or intestate would have been if he had been living.

Executors in their own Wrong.

When party shall be charged as executor in his own wrong.

43 Eliz., c. 8; 1712, II, 507, § 2.

SEC. 12. That every person and persons who shall obtain, receive and have any goods or debts of any person dying intestate, or a release or other discharge of any debt or duty that belonged to the intestate, upon any fraud, or without such valuable consideration as shall amount to the value of the same goods or debts, or near thereabouts, (except it be in or towards satisfaction of some just and principal debt of the value of the same goods or debts to him owing by the intestate at the time of his decease), shall be charged and chargeable as executor of his own wrong, so far as such goods and debts coming to his hands, or whereof he is released or discharged by such administrator, will satisfy, deducting, nevertheless, to and for himself. allowance of all just, due and principal debts upon good consideration, without fraud, owing to him by the intestate at the time of his decease, and of all other payments made by him, which lawful executors or administrators may and ought to have and pay by the laws and statutes of this State.

Executors in their own wrong, deemed trespassers and may be required to make discovery, &c.

30 C. 2, c. 7; 1712, II, 529, § 2; 1789, V, 112, § 31; 1839, XI, 63 § 20; 1 Hill, 50; 2 McC., 516; Harper, 6-31; 4 McC., 286, 1-4; 3 Rich., 413; Rice, 293; 1 Bail., 42, 25; 2 Bail., 480; Dudley, 329; 6 Rich., 355; 11 Rich., 353; 2 Rich. Eq., 247; 15 Rich., 63.

SEC. 13. The Judge of Probate of the County in which a deceased person may have died, shall have power (either of his own accord, or at the instance of any creditor or other person interested in the estate of the deceased,) to cite before him such person or persons, as neither being appointed executor nor having obtained administration of the effects of such deceased person, shall, nevertheless, possess himself or themselves of the goods and chattels, rights and credits of such person deceased; and, upon such person or persons being cited as aforesaid, the Judge of Probate shall require of him or them a discovery and account of all and singular the goods and chattels, rights and credits of the deceased, and shall proceed to decree against him or them for the value of the estate and effects of the deceased, which he or they may have wasted, or which may have been lost by his or their illegal interference, charging them as executors of their own wrong, are made liable at common law, as far as assets shall have come into their hands.

Liability of executors of executors in their own wrong.

1789, V, 113, § 32; 1 Hill, 50, 167; 2 Rich. Eq., 247.

SEC. 14. Every executor and administrator of any person or persons who, as executor in his own wrong, or administrator, shall waste or convert any goods, chattels, estate or assets of any person deceased, to his own use, shall be liable and chargeable in the same manner as their testator or intestate would have been if he had been living.

Distribution.

Distribution of surplusage of estates.

22 and 23 C. 2, c. 10; 1712, II, 521, § 5.

SEC. 15. That every person who is enabled to make distribution of the surplusage of the estate of any person dying intestate, shall distribute the whole surplusage of such estate in the manner provided by Chapter LXXXV of this Act.

SEC. 16. In case any child, who shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate in his lifetime by portion not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate, to be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children to be equal as near as can be estimated.

Share of child advanced by portion.

Ib.

SEC. 17. No distribution of the goods of any person dying intestate shall be made till after one year be fully expired after the intestate's death; and every one to whom any distribution and share shall be allotted shall give bond with sufficient sureties that if any debts truly owing by the intestate shall be afterwards sued for and recovered, or otherwise duly made to appear, he or she shall respectively refund and pay back to the administrator his or her rateable part of that debt or debts, and of the costs of suit and charges of the administrator, by reason of such debt, out of the part and share so as aforesaid allotted to him or her, thereby to enable the said administrator to pay and satisfy the said debt or debts so discovered after the distribution made as aforesaid.

No distribution till after 1 year. If debts afterwards appear, all to refund proportionably.

Ib., § 8.
1 Hill ch., 142; 10 Rich. Eq., 435; Rice Eq., 110.

CHAPTER LXXXIX.

OF INVENTORIES AND APPRAISEMENT.

SEC.
1. Inventory and appraisement to be made upon probate of will or application for administration.
2. Appraisement to be made in each County where goods are.
3. Appraisement evidence to prove value.
4. Pay of appraisers.
5. No person to act as appraiser until sworn; oath.

SECTION 1. That where a will is proved, or application is made for administration of the estate of a person dying intestate, the Judge of Probate of the County shall require the executors or administrators to make out an exact inventory of the personal estate of the deceased, and shall appoint three or more respectable freeholders to appraise the same on oath; which inventory and appraisement shall be returned into his office, within such time as he shall limit.

Inventory and appraisement to be made upon probate of will or application for administration.

1745, III, 686, § 1; 1789 V, 108, § 12; 1839, XI, 61, § 15.

SEC. 2. If the goods be in several Counties, the Judge of Probate of such Counties, respectively, shall order appraisement, and appoint appraisers in each, which appraisement, when made, shall be returned by the appraisers into the office of the Judge of Probate, where the will is recorded, or by whom administration is granted.

Appraisement to be made in each county where goods are.

Ib.

Appraisement evidence to prove value.

Ib; 1715, III, 667, § 3; 3 Rich Eq., 311.

SEC. 3. Every appraisement made, as aforesaid, may be given in evidence in any legal proceeding against such executors and administrators, to prove the value of the estate, but shall not be conclusive, if it shall appear, upon a trial of the cause, that the estate was really worth, or *bona fide* sold for, more or less than such appraisement.

Pay of Appraisers.

1839, XI, 61, § 14.

SEC. 4. Upon the settlement of their accounts by executors and administrators, it shall be the duty of the Judge of Probate to allow them the sum of one dollar per day, for the expense of every appraiser during the time that he is proved to have been employed in appraising the estate of the testator or intestate.

No person shall act as an appraiser until sworn.

1715, III, 667, § 7.

SEC. 5. No appraisers, appointed to appraise any testator's or intestate's goods and chattels, shall enter upon that office before they shall have taken the following oath, before a Trial Justice, who is hereby impowered to administer the same:

Oath.

"You, A B, C D, E F, &c., do swear, that you will make a just and true appraisement of all and singular the goods and chattels, (ready money only excepted,) of G. H., deceased, as shall be produced by I. K., the executor or administrator of the estate of the said G. H., deceased, and that you will return the same, certified under your hands, unto the Judge of Probate of ——— County, within the time prescribed by law."

CHAPTER XC.

OF THE PAYMENT OF DEBTS AND LEGACIES.

SEC.
1. Executors and administrators to give notice to creditors to render accounts; debts to be ascertained in a year.
2. If creditor fail to render account, executors or administrators not liable.
3. Order of payment of debts.
4. Preference of creditors in equal degree; rights under liens.
5. Crops to be assets.
6. When emblements shall be assets, and when pass with lands.
7. Estates *pur auter vie*, if not devised, to be assets.
8. Effects of deceased non-residents liable for debts to citizens as upon specialty.
9. Administrators, &c., may compromise demands.
10. If assets are insufficient to pay debts, real estate to be sold and proceeds applied.
11. Executors or administrators to give bond for faithful administration of fund arising from such sale.
12. Moneys arising from sale to be paid upon petition of creditors; proviso.
13. Upon such application, executor or administrator to account for assets.
14. Heirs or devisees to be summoned; form of summons.
15. Service of copy; proviso.
16. Citation of non-residents to be by publication; if assets are insufficient, sufficient of proceeds of sale to be applied.
17. Full records to be kept.
18. Fee of Probate Judge.
19. Sheriff to execute process; fees.
20. Sheriff's costs, how collected.

Executors, &c., to give notice to creditors to render accounts; debts to be ascertained in a year.

1789, V, 11, § 27; Bail Ex., 467.

SECTION. 1. That every executor or administrator shall give three weeks' notice, by advertisement in one of the gazettes printed in the County, or if there be none, in some gazette of general circulation in the County, for creditors of the estate in his charge to render an account of their demands, duly attested; and he shall be allowed twelve months to ascertain the debts due from the deceased, reckoning from probate of will or grant of administration.

SEC. 2. If any creditor shall neglect to give in a statement of his debts within the time aforesaid, the executors or administrators shall not be liable to make good the same.

Creditor not rendering account.

Ib.

SEC. 3. The assets which come to the hands of an executor or administrator, after proper allowance to the executor or administrator, in a due course of administration, shall be applied to the payment of his debts in the following order, that is to say:

1. Funeral and other expenses of the last sickness, charges of probate or letters of administration;
2. Debts due to the public;
3. Judgments, mortgages and executions—the oldest first;
4. Rent;
5. Bonds and debts by specialty;
6. Debts by simple contract.

Order of payment of debts.

Ib; § 26. 4 McC., 28; 3 Strob., 131; 7 Rich, 33; Dudley, 337; 9 Rich. Eq, 100; 10 Rich Eq, 12, 469; 13 Rich. Eq., 99; 11 Rich, 476; 1 DeS., 450; 4 DeS., 65; 2 Bail., 598; 2 Hill, Ch., 250; 7 Rich. Eq., 281.

SEC. 4. No preference shall be given among the creditors in equal degree, where there is a deficiency of assets, except as to judgments, mortgages and executions, the oldest of which shall be paid first; mortgages to date from the day of recording, and executions from the day when entered in the Sheriff's office, saving to creditors their rights under any special lien.

Preference of creditors in equal degree; rights under liens.

Ib., 26. 4 DeS., 65.

SEC. 5. If any person shall die after the first day of March, in any year, the crop on the lands which were in the occupation of the deceased shall be assets in the executors' or administrators' hands, subject to debts, legacies, and distribution, the taxes and expenses of cultivation of such crop being first paid.

Crops to be assets.

Ib., § 23. 1 Bay., 494; 3 Strob, 21; Bail. Eq., 398.

SEC. 6. The emblements of such lands which shall be severed before the last day of December following, shall, in like manner, be assets in the hands of the executors or administrators, but all such emblements growing on the lands on that day, or at the time of the testator or intestate's death, if that happens after the said last day of December and before the first day of March, shall pass with the lands.

When emblements shall be assets and when pass with lands.

Ib. 3 Strob., 21.

SEC. 7. If no devise of an estate for the life of another be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as assets by descent, as in case of lands in fee simple; and, in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof by virtue of the grant, and shall be assets in their hands.

Estates *pur auter vie*, if not devised; assets, &c.

29 C. 2, c. 3; 1712, II, 527, § 12. 12 Rich. Eq., 454.

SEC. 8. Where any person not a citizen of this State has died, or shall die, already indebted to a citizen of this State, the assets and effects within the same, of such deceased person, being sufficient for the payment of all his debts, shall be liable to discharge the debts due the citizens of the State, in the same manner as if the same had been liquidated by bond or other specialty; any law, usage, or custom to the contrary notwithstanding.

Effects of deceased non-residents liable for debts to citizens as upon specialty.

1788, V, 86, § 1. 4 McC., 28.

Administrators, &c., may compromise demands, &c.
1870, XIV, 313, § 2.

SEC. 9. All administrators and executors may, by and with the consent of the Probate Judge, compromise all demands coming into their hands as such, where the same is appraised doubtful or worthless; and, where such compromises are made, the same shall be fully shown in their annual returns.

If assets are insufficient to pay debts, real estate to be sold and proceeds applied.
1842, XI, 232, § 1.

SEC. 10. The Judges of Probate of the several Counties in this State shall have power, if the personal estate of any intestate, testator or testatrix, in the hands of the administrators or executors, or, if the assets set apart by a last will and testament be insufficient to pay the debts of the deceased, to pay over to the administrators or executors of such estate the whole or so much of the proceeds of the sale of the real estate of the deceased, sold by them, the said Judges, as will pay the outstanding debts of the deceased; and the administrators or executors receiving the same shall be chargeable therewith as with other assets which have come into their possession in the regular course of administration.

Executors or Administrators to give bond for faithful administration of fund arising from such sale.
Ib., 233, § 2.
6 Rich., 355.

SEC. 11. Before paying over to any executors or administrators any moneys arising from the sale of real estate, as provided and directed in the preceding Section, Judges of Probate shall require the said administrators or executors to enter into bond, with good and sufficient surety, payable to the Probate Judge, and in a penal sum equal to double the amount to be paid over, the condition of which bond shall be the just and faithful administration of the fund according to law.

Moneys arising from sale to be paid upon petition of creditors.
Ib., § 3.

SEC. 12. On application by a creditor or creditors of the deceased, by petition in writing, stating the indebtedness of the deceased, the deficiency of assets, and praying that the proceeds of the sale of real estate of the deceased may be paid over to the executor or administrator, (as the case may be,) and applied to the satisfaction of the debts of the deceased, the Probate Judge shall pay over to the executor or administrator, taking bond and surety, as provided by this Chapter, such proceeds, or so much thereof as shall be necessary: *Provided*, The heirs at law, or devisees, shall have notice thereof and be required to show cause, if any they can, to the contrary.

Proviso.

Upon such application Executor or Administrator to account for assets.
Ib., § 4

SEC. 13. The Probate Judge shall, on such application, forthwith cite the executor or administrator to appear and account for the assets of the deceased, if such accounting has not been previously had.

Heirs or devisees to be summoned.
Ib.

SEC. 14. He shall also summon the heirs at law, or devisees, of the deceased, as the case may be. The form of the summons shall be as follows:

Form of summons.

"To A. B. and C. D., heirs at law of E. F., (or devisees of E. F.:)

"You are hereby required to appear at the Court of Probate, to be holden at ———— Court House, for ———— County, on the ———— day of ————, Anno Domini ————, to show cause, if any you can, why the proceeds of the sale of the real estate of E. F., deceased, sold by me for partition and division, should

not be paid over to G. H., executor, (or administrator,) of the said E. F., to be applied by him to the payment of the debts of the said E. F.

"Given under my hand and seal, this ———— day of ————, A. D. ————

(Signed) "J. K., [L. S.]

"Probate Judge of ———— County."

SEC. 15. A copy of the said summons shall be served on the parties interested, in like manner as summonses are served in civil actions in the Circuit Courts; and if there be minors, the Probate Judge shall appoint guardians *ad litem*, who shall be served with a copy of such summons, and the appointment and acceptance of such guardianship shall be endorsed on the petition; *Provided*, That nothing herein contained shall preclude any of the parties from accepting the service of such summons, or from consenting to the application of the funds as prayed for in such petition.

Service of copy.

Ib. (See Code of Procedure, § 151, 157 and 158).

Proviso.

SEC. 16. If any of the parties reside beyond the limits of this State, or whose residence is unknown, and do not consent, in writing, that the funds be so applied, the Probate Judge shall advertise for his or her or their appearance, by publication of the summons as provided by Section 158 of the Code of Procedure; and if such party shall not appear and show sufficient cause, within the time named in the said summons, then the Judge of Probate shall enter of record his, her or their consent as confessed, and shall take an account of the executor or administrator relative to the assets of the estate of the deceased, and if he shall be satisfied that they are insufficient to pay the debts thereof, of which he shall make an exhibit in the said account, he shall pay over to the executor or administrator the whole or so much of the proceeds of the sale of the real estate in his hands, as may be necessary to pay the debts of the said deceased.

Citation of non-residents to be by publication; if assets are insufficient, sufficient of the proceeds of sale to be applied.

Ib.

SEC. 17. The Probate Judge shall file and keep in his office the petition and all the papers connected therewith, and shall enter in his cash book the amount abstracted from the sale of the real estate and paid over to the executor or administrator, after deducting all costs; and the balance remaining in his hands, if any, shall be disposed of as provided by law.

Full records to be kept.

Ib., § 5.

SEC. 18. The Probate Judge shall receive for his services required by Sections 11 to 18, inclusive, of this Chapter, the sum of five dollars, and no more, out of the proceeds of the sale of the real estate of the deceased, unless the application be refused or rejected by the Probate Judge, in which case the same shall be paid by the petitioner or petitioners, and the Probate Judge is empowered to enforce execution against him or them for the same.

Fee of Probate Judge.

Ib.

Sheriff to execute process; fees.

Ib., 234, § 6.

SEC. 19. The Sheriffs of the several Counties in this State are required to serve all processes which may be issued by the Probate Judge under the provisions of Sections 11 to 19, inclusive, of this Chapter, for which they shall receive the same fees as are allowed them by law for similar services.

Sheriff's costs, how collected.

Ib.

SEC. 20. The Sheriff's costs shall be paid out of the proceeds of the sale of the real estate of the deceased, or by the petitioner or petitioners, as provided for in Section 18 of this Chapter.

CHAPTER XCI.

OF THE ACCOUNTS AND COMMISSIONS OF EXECUTORS AND ADMINISTRATORS.

SEC.
1. Executors and administrators to render in their accounts annually, on oath.
2. Default in making annual returns; bonds.
3. Administrators to account only to persons interested, except by inventory.
4. Commissions.
5. Executors, &c., not satisfied, may bring action for additional commissions.
6. Commissions to be divided according to service.
7. Executor, &c., dying, his estate allowed commissions.

Executors, &c., to render in their accounts on oath.

1745, III, 668, § 10, 1780, V, 112, § 28, 2 Hill, 560.

SECTION 1. That executors or administrators shall annually, while any estate shall remain in their care or custody, at the first Court to be held after the first day of January, render to the Judge of Probate of the County, from whom they obtained probate of will or letters of administration, a just and true account, upon oath, of the receipts and expenditures of such estate the preceding year, which, when examined and approved, shall be deposited with the inventory and appraisement, or other papers belonging to such estate, in the office of said Judge of Probate, there to be kept for the inspection of such persons as may be interested in the said estate.

Default in making annual returns; letters of administration may be revoked.

1829, XI, 68, § 33.

SEC. 2. When an administrator or executor, appointed by the Judge of Probate, shall neglect to make his annual return for six months after the month of January, in which it should have been made, it shall be the duty of the Judge of Probate forthwith to cite him or her so to do, and upon his or her neglect or refusal to render such account, on or before the next annual period of accounting, such defaulter shall be adjudged in contempt, and the Judge of Probate is empowered and required to issue his attachment against such defaulter, and imprison him or her, until he or she shall purge such contempt by rendering such account. And in case of such recusant administrator, he may further revoke the letters of administration.

SEC. 3. No administrator shall be cited to render an account of the personal estate of his intestate (otherwise than by an inventory or inventories thereof) unless it be at the instance or prosecution of some person or persons in behalf of a minor, or having a demand out of such personal estate as a creditor or next of kin, nor be compellable to account otherwise than is herein provided.

Administrator to account only to persons interested, except by inventory.

1 J. 2, c. 17, 1712, II, 530, § 6

SEC. 4. Every executor or administrator shall, for his, her, or their care, trouble, and attendance in the execution of their several duties, take, receive, or retain in his, her, or their hands, a sum not exceeding the sum of two dollars and fifty cents for every hundred dollars which he, she, or they shall receive, and the sum of two dollars and fifty cents for every hundred dollars which he, she, or they shall pay away, in credits, debts, legacies, or otherwise, during the course and continuance of their or either of their managements or administrations, and so in proportion for any sum or sums less than one hundred dollars: *Provided*, That no executor or administrator shall, for his, her, or their trouble in letting out any moneys upon interest, and again receiving the same, be entitled to take or retain any sum exceeding ten dollars for every hundred dollars for all sums arising by moneys let out to interest, and in like proportion for a larger or lesser sum; nor shall any executors or administrators who may be creditors of any testator or intestate, or to whom any sum of money or other estate may be bequeathed, be entitled to any commissions for paying or retaining to themselves any such debts or legacies.

Commissions.

1789, V, 112, § 29; 3 DeS., 78; 4 DeS., 529; 1 McC., Ch., 462; 2 McC., Ch., 1, 185, 473; 2 Hill, Ch., 295, 492; 3 Rich. Eq., 13, 15; Rich. Eq. Ca., 5, 52, 452; Bail. Eq., 374; Rice's Eq., 239; Rich. Eq., 75; 12 Rich. Eq., 22, 41.

SEC. 5. Any executors or administrators, who shall have had extraordinary trouble in the management of the estates under their care, and shall not be satisfied with the sums hereinbefore mentioned, may be at liberty to bring an action in the Court of Common Pleas for their services; and the verdict of the jury and judgment of the Court thereupon shall be final and conclusive in such cases: *Provided, always*, That no verdict shall be given for more than five per centum over and above the sums allowed by this Chapter.

Executors, &c., not satisfied may bring action for additional commissions.

1745, III, 638, § 12. 1 McC. Ch., 1; 1 Hill Ch., 293; Rich. Eq. Ca., 49.

SEC. 6. The commissions given by this Chapter shall be divided amongst executors and administrators in proportion to the services by them, respectively, performed, to be rated and settled by the Judge of Probate who granted probate of the will or letters of administration, if the executors or administrators cannot agree amongst themselves concerning the same.

Commissions to be divided according to service.

1789, V, 112 § 30.

SEC. 7. When any executor or administrator dies, after having settled the estate of the testator or intestate, except paying over the legacies or shares of the legatees or distributees, the estate of such executor or administrator shall be allowed commissions for paying over such legacies or distributive shares, as well as for receiving them.

Executor, &c., dying, his estate allowed commissions.

1859, XII, § 5, § 2.

CHAPTER XCII.

Of the Liability of Heirs.

SEC.
1. Debt upon specialty sueable against the heirs and devisees jointly.
2. Devisee chargeable for false answer.
3. Devise for raising portions pursuant to a marriage contract good.
4. If heir alien before action, he shall be liable for debts of ancestor to value of land sold.
5. Creditors preferred.
6. Plea of *riens per descent.*
7. Judgment against heir by confession, &c.
8. Devisee by this Chapter made liable; to be chargeable as heir.

Debt upon specialty jointly sueable against the heir and devisees of an obligor.

3 & 4 W & M., c. 14; 1712 II, 533, §§ 1–3. 4 Mcc', 130, a; 135; Rice, 346. (For other cases see vol. II, 738, 3d note).

SECTION 1. That where several persons having by bonds or other specialties bound themselves and their heirs, and have afterwards died seized in fee simple of and in lands, tenements and hereditaments, or had power or authority to dispose of or charge the same by their wills or testaments, have, to the defrauding of their creditors, by their last wills or testaments, devised the same, or disposed thereof in such manner that such creditors have lost their said debts, every such creditor shall and may have and maintain his, her or their action upon his, her and their said bonds and specialties, against the heir and heirs-at-law of such obligor and obligors, and such devisee and devisees, jointly.

Devisee chargeable for a false answer.

Ib, 534, § 3.

SEC. 2. Such devisee or devisees shall be liable and chargeable for a false answer by him or them made, in the same manner as any heir should have been for any false answer by him made, or for not confessing the lands and tenements to him descended.

Devise for raising portions pursuant to a marriage contract, good.

Ib, § 4.

SEC. 3. Where there has been, or shall be, any limitation or appointment, devise or disposition of or concerning any lands, tenements or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money, for any child or children of any person, other than the heir-at-law, according to or in pursuance of any marriage contract or agreement in writing, *bona fide* made before such marriage, the same and every of them shall be in full force; and the said lands, tenements and hereditaments shall and may be holden and enjoyed by every such person or persons, his, her and their heirs, executors, administrators and assigns for whom the said limitation, appointment, devise or disposition was made, and by his, her and their trustee or trustees, his, her and their heirs, executors, administrators and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid and satisfied.

If heir alien before action he shall be liable for debts of ancestor to value of land sold.

Ib, § 5. 2 Hill, 579.

SEC. 4. In all cases where any heir at law shall be liable to pay the debt of his ancestor in regard of any lands, tenements, or hereditaments, descending to him, and shall sell, alien, or make over the same, before any action brought against him, such heir at law shall be answerable for such debt or debts, to the value of the said land so by him sold, aliened or made over.

SEC. 5. In any of the cases referred to in the last Section, creditors shall be preferred as in actions against executors and administrators, and execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts; saving that the lands, tenements and hereditaments *bona fide* aliened before the action brought shall not be liable to such execution.

Creditors preferred
Ib.

SEC. 6. Where any action upon any specialty is brought against any heir, he may answer that he has nothing by descent at the time of the commencement of action. If upon issue joined thereupon a verdict be found for the plaintiff, the jury shall enquire of the value of the lands, tenements or hereditaments, so descended, and thereupon judgment shall be given, and execution may be issued accordingly.

Answer of nothing by descent.
Ib, § 6.

SEC. 7. If judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer, or default, it shall be for the debt and damages, without any order to enquire of the lands, tenements or hereditaments so descended.

Judgment against heir by confession, &c.
Ib.

SEC. 8. All and every devisee and devisees, made liable by this Chapter, shall be liable and chargeable in the same manner as the heir at law, notwithstanding the lands, tenements, and hereditaments, to him or them devised, shall be aliened before the action brought.

Devisee hereby made liable, chargeable as heir.
Ib., 535, § 7.

CHAPTER XCIII.

OF TRUSTS AND SPECIAL PROVISIONS RELATING TO TRUSTS AND GUARDIANSHIPS.

SEC.
1. Trust deeds of chattels to use of grantor void.
2. The possession of trust estates to be in the beneficiaries thereof.
3. If several be seized jointly to the use of one of them, the seizin shall follow the use, saving the right of strangers and the right of feofees to use.
4. Beneficiaries to rent out of a trust estate to have the same title as if conveyed by grant, &c.
5. All creations of trust shall be in writing.
6. Trusts, arising, transferred, or extinguished by implication of law, excepted.
7. Assignments of trusts to be in writing.
8. Trusts shall be assets in the hands of heirs.
9. No heir shall become chargeable of his own estate for the debts of his ancestor.
10. Substitution of trustees; proviso.
11. Trustees and guardians appointed by the Court to make annual returns.
12. Trust deeds of personal property to be recorded.
13. Of lands.
14. Commissions of trustees.

SECTION 1. That all deeds of gift of goods and chattels in trust, to the use of the person or persons that made the same deed of gift, shall be void and of none effect.

Trust deeds of chattels to use of grantor, void
3 Hen. 7, c. 4; 171, II, 453, § 1. 1 McC. Ch., 233.

Possession of trust estates to be in the beneficiaries.

27 Hen. 8, c. 10; 1712, II, 467, § 1. 1 McC. Ch., 209; 1 Bay., 164

SEC. 2. Where any person or persons shall be seized, of and in any lands, tenements, rents, reversions, remainders or other hereditaments, to the use, confidence or trust of any other person or persons, or of any body politic, by reason of any bargain, sale, feoffment, covenant, contract, agreement, will or otherwise, the person, persons, or bodies politic, that have, or shall have any such use, confidence or trust, in fee-simple, fee-tail, for term of life or for years, or otherwise, or any use, confidence or trust, in remainder or reversion, shall be deemed and adjudged in lawful seizin, estate and possession of and in the same lands, tenements, rents, reversions, remainders and hereditaments, with their appurtenances, to all intents, constructions and purposes in law, of and in such like estates as they had or shall have in use, trust or confidence of or in the same.

If several be seized, jointly, to the use of one of them, the seizin shall follow the use.

Ib., §§ 2, 3. 13 Co., 55, 56; 2 Roll., 246. 2 Lev., 126, 127; 1 Salk., 241; 1 Anders., 84.

SEC. 3. Where divers and many persons shall happen to be jointly seized of and in any lands, tenements, rents, reversions, remainders or other hereditaments, to the use, confidence or trust of any of them that be so jointly seized, such person or persons which have or shall have any such use, confidence or trust in any such lands, tenements, rents, reversions, remainders or hereditaments, shall have, and be deemed and adjudged to have such estate, possession and seizin, of and in the same lands, tenements, rents, reversions, remainders and other hereditaments only to him or them that have, or shall have any such use, confidence or trust, in like nature, manner, form condition and course, as he or they had before in the use, confidence or trust of the same lands, tenements or hereditaments, saving and reserving to all and singular persons and bodies politic, their heirs and successors, other than such person or persons which are, or shall be, seized of any lands, tenements or hereditaments, to any use, confidence or trust, all such right, title, entry, interest, possession, rents and action, as they or any of them had, or might have had without this Section; and, also, saving to all and singular those persons, and to their heirs, which are, or shall be, seized to any use, all such former right, title, entry, interest, possession rents, customs, services and action, as they or any of them might have had to his or their own proper use, in or to any lands, tenements, rents or hereditaments, whereof they are, or shall be, seized to any other use, anything contained in this Chapter to the contrary notwithstanding.

Saving the rights of strangers and feofees to use.

Beneficiaries of rent out of a trust estate to have the same title as if conveyed by grant, &c.

Ib., § 4, 5. 1 Anders., 275, 338.

SEC. 4. In every case where divers persons are seized of and in any lands, tenements or hereditaments, in fee simple or otherwise, to the use and intent that some other person or persons shall have and receive yearly to them, and to his or their heirs, one annual rent out of such lands and tenements, and some other person one other annual rent, to him and his assigns for term of life or years, or for some other special time, according to such intent and use as has been before declared, limited and made thereof, the persons, their heirs and assigns, that have such use and interest, to have and receive any such annual rents out of any lands, tenements or hereditaments, and every of them, their heirs, and assigns, shall be adjudged and deemed to be in the possession and seizin of the same rent, of and in such like estate as they had in the

title, interest or use of the said rent or profit, and as if a sufficient grant, or other lawful conveyance, had been made and executed to them, by such as were or shall be seized to the use or intent of any such rent to be had, made or paid, according to the trust and intent thereof; and all and every such person and persons as have or shall have any title, use and interest in or to any such rent or profit, shall have all suits, entries and remedies for such rents, according to such conditions, pains or other things limited and appointed, upon the trust and intent for payment or surety of such rent.

All creations of trusts shall be in writing.
29 Car. 2, c. 3; 17 Car. II, 52, § 7. 4 Ann., c. 16, § 15; 17 Car. II, 1 5. 1 McC. Ch., 1 9; 1 Harp. Eq., 281; 1 Strob.,

SEC. 5. All declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such uses or trust, or by his last will in writing, or else they shall be utterly void and of none effect.

370; 11 Rich. Eq., 58; 12 Rich. Eq., 213.

Trusts arising, transferred or extinguished by implication of law, excepted.
29 Car. 2, c. 3; 11, 526, § 8.

SEC. 6. Where any conveyance shall be made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law, or be transferred or extinguished by act or operation of law, then and in every such case such trust or confidence shall be of the like force and effect as the same would have been without this Chapter.

Assignments of trusts shall be in writing.
Ib., § 9.

SEC. 7. All grants and assignments of any trust or confidence shall be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall be utterly void and of none effect.

Trusts shall be assets in the hands of heirs.
Ib., § 10.
2 Vern., 248, c. 232; 8 Rich., 377.

SEC. 8. If any *cestui que trust* shall die, leaving a trust in fee simple to descend to his heir, such trust shall be deemed and taken, and is hereby declared to be, assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended; any law, custom or usage to the contrary in any wise notwithstanding.

No heir shall become chargeable of his own estate for the debts of his ancestor.
Ib., § 11.

SEC. 9. No heir that shall become chargeable by reason of any estate or trust made assets in his hands by this Chapter, shall, by reason of any kind of plea or confession of the action, or suffering judgment by default, or any other matter, be chargeable to pay the condemnation out of his own estate; but execution shall be sued of the whole estate so made assets in his hands by descent, in whosesoever hands it shall come after the commencement of the action.

Substitution of trustees.

SEC. 10. In every case of a trust estate where the person or persons entitled to the use of any property or estate vested in trustees, being of age, or his, her or their guardian, if under age, may be willing to have other trustees substituted in the room of those in whom the

legal estate is vested, or to have any one or more trustees substituted in the room of any one or more of the first or former trustees, the Court of Common Pleas is authorized to permit such one or more of the first or former trustees to surrender his, her or their trust, and to appoint such one or more trustees in his, her or their room, as to the said Court may appear fit, proper and advisable; and the trustee or trustees so appointed and substituted shall then be considered, to all intents and purposes, as vested completely and absolutely with all the estate, right, title, interest, powers, privileges and authority, and as liable to all the conditions, terms and restrictions, as that trustee or those trustees were vested with or liable to, in whose stead room or place he, she or they may be so appointed or substituted; and the first or former trustee or trustees shall be therefrom completely exonerated and discharged: *Provided, always*, That a certificate of such appointment and substitution shall be endorsed by the Clerk of the Court of Common Pleas upon the original trust deed, if the trust be created by deed, and the deed can be found, and that such a certificate shall be annexed to the original will, if the trust be created by will, and be lodged therewith in the office where the will may be lodged; and that such a certificate shall also be recorded in the office, where the deed or will may be recorded or lodged, or ought to be recorded or lodged.

Proviso.
1789, V, 277, § 1. Rich. Eq. Cas., 2; 4 Strob. Eq., 69; 7 Rich. Eq., 471; Bail., Eq., 489.

Trustees and guardians appointed by the Court to make annual returns.
1824, VII, 5-7, § 10. Rich. Eq. Cas., 5.

SEC. 11. It shall be the duty of every trustee or guardian appointed by the Court, to make an annual return of the estate in his possession, setting out all the items of money received and paid out, with the proper vouchers; and it shall be the duty of the Judge of Probate to set apart certain days for the examination of such accounts, and to give notice thereof to all guardians and trustees whose duty it shall be to account before him.

Trust deeds of personal property to be recorded.
1886, XIII, 4-8, § 4.

SEC. 12. All deeds or other written instruments conveying personal estate, and creating a trust or trusts in regard to such property, shall be recorded as mortgages of personal property are required to be recorded, and, unless so recorded, shall not be valid to affect the rights of subsequent creditors or purchasers for valuable consideration without notice.

Of lands.
1785, VII, 3-4, § 47; 1836, XI, 5, 7-15.

SEC. 13. Deeds of trust whereby any lands, the property of any persons residing in this State are charged, encumbered or passed from one person to another shall be registered in the office of the Register of Mesne Conveyances for the County wherein such lands are situated.

Commissions of Trustees.
1745, III, 366, § 1; 1789, V, 112, 129; 1 Hill Ch., 182; 13 Rich. Eq., 201.

SEC. 14. Trustees shall be allowed the same commissions for the execution of their trusts as are allowed to executors and administrators by Section 4 of Chapter XCI, of this Act.

TITLE V.

OF TITLE TO PROPERTY BY SPECIAL PROVISIONS OF LAW.

CHAPTER XCIV. *Of Sales by Executors, Administrators and Fiduciaries.*
XCV. *Of Sales of Land under Execution.*
XCVI. *Of Homesteads.*
XCVII. *Of the Assignments of Insolvent Debtors.*

CHAPTER XCIV.

OF SALES BY EXECUTORS, ADMINISTRATORS AND FIDUCIARIES.

SEC.
1. Lawful for qualified executors to sell land, &c.
2. Executors dying or renouncing.
3. Liability for taking insufficient security.
4. May purchase under liability to pay the actual value.
5. To give security to account for purchase money.
6. Order of sale of personal property.
7. Judge of Probate to grant order.
8. Power of Judge of Probate over personal estate of testator.
9. Sales of certain evidences of indebtedness.
10. Administrators, &c., to compromise certain demands.
11. Evidences of indebtedness affected by homestead law.
12. Executors may dispose of certain property—how.
13. Conveyance of estates held by infants in trust, or by way of mortgage.
14. Confirmation of such a conveyance.
15. Infant trustee, &c., may be compelled to make such conveyance, &c.

Lawful for qualified executors to sell land, &c.

21 H. 8, c. 4; 1712, II, 457; 1787, V, 15, § 1. 4 DeS., 502; Harper, 411; 4 Rich., 200; 2 McC Ch., 185; Bail. Eq., 392; 1 S. C. R., 256

SECTION 1. That whenever any person has directed or shall direct by his or her last will and testament, duly executed in the presence of three or more credible witnesses, that his or her lands shall be sold for the payment of his or her debts, or for the purpose of distributing the money which may arise from the sale thereof among his or her legatees, then and in every such case it shall and may be lawful to and for the executors of such person, or the majority of such executors as shall qualify on the said will, if no person is expressly named for that purpose, to sell and convey the said lands, agreeably to the intention of the testator.

Executors dying or renouncing.

Ib.

SEC. 2. If the executor or executors should die, or renounce, according to law, the administrator or administratrix with the will annexed, shall be authorized to sell the real estate of the said deceased, as directed in and by the will.

Liability for taking insufficient security

1789, V, 109, § 19.

SEC. 3. If any executor, or administrator, with the will annexed, having power under the will to dispose of the estate or any part thereof, shall take such security as shall be clearly proved to be insufficient at the time, such executors or administrators, and their securities, shall be liable to make good any loss or damages that the legatees or creditors may sustain, to be recovered by action against such executors, or by action on the bond of such administrators and their security, wherein such damages shall be assessed by the verdict of a jury.

May purchase under liability to pay the actual value.
1839, XI, 89, § 1. 9 Rich. Eq., 217; 1 S. C. R., 125

SEC. 4. It shall be lawful for any executor or executrix, administrator or administratrix, to become a purchaser at the sales of the estate of his or her testator or intestate under whatsoever authority the said sales may be made, and the property so purchased shall be vested in him or her; but he or she shall be liable to the parties interested, for the actual value of the property, at the time of sale, in cases where it shall have been sold at an under price.

To give bond, with surety.
Ib., § 2. 9 Rich. Eq., 217.

SEC. 5. That if any executor or executrix shall purchase any property at the sales of the estate of his or her testator, he or she shall give bond, with surety, to the Judge of Probate of the County, conditioned to account for the purchase money of the said property.

Order of sale of personal property.
1789, V, 109, § 19; 1824, VI, 278, § 6; 1 Hill, 81; 2 McC. Ch., 185; Dudley, 4; 13 Rich. Eq., 297.

SEC. 6. On all sales of personal property, made by executors and administrators, they shall first obtain an order from the Court of Probate; and no sale made without such order shall be valid, except it be directed by the will.

Judge of Probate to grant order.
1839, XI, 92, § 18.

SEC. 7. It shall be the duty of the Judge of Probate by whom administration may be granted, upon application made to him, to grant an order for the sale of the whole or any part of the personal estate of the deceased intestate, if, in his opinion, the same is advisable, regulating the time, place and credit to be given, in such manner as to do impartial justice to all persons interested therein.

Power of Judge of Probate over personal estate of testator.
Ib.

SEC. 8. The Judge of Probate in whose office a will is recorded shall have the same power as to the personal estate of a testator, not inconsistent with the provisions of the will, as is given him over the personal estate of an intestate by the preceding Section.

Sales of certain evidences of indebtedness.
1870, XIV, 413, § 1.

SEC. 9. All administrators, executors, and other fiduciaries, shall be allowed to sell to the highest bidder, as other personal property is sold, all notes, accounts and other evidences of indebtedness coming into their hands as such, when the same are appraised doubtful or worthless.

Administrators, &c., to compromise certain demands
Ib., § 2.

SEC. 10. They may, by and with the consent of the Probate Judge, compromise all demands coming into their hands as such, where the same are appraised doubtful or worthless; and, where such compromises are made, the same shall be fully shown in their annual returns.

Evidences of indebtedness affected by homestead law.
1871, XIV, 592, § 1.

SEC. 11. Administrators, executors, and other fiduciaries, having in their possession, as such, notes, accounts, and other evidences of indebtedness, which have become doubtful or worthless by the operation of Chapter XCVI of this Act, shall be allowed to dispose of the same in the manner prescribed in Sections 9 and 10 of this Chapter.

Executors may dispose of certain property; how
Ib., 593, § 2.

SEC. 12. Where administrators, executors, and other fiduciaries sold property, as such, prior to the ninth day September, in the year of our Lord one thousand eight hundred and sixty-eight, and took notes or other evidences of indebtedness, for the purchase money, which were regarded good at the time they were taken, but which have since been ren-

dered doubtful or worthless, by operation of the homestead law, said administrators, executors, and other fiduciaries, shall be allowed to dispose of the same in the manner prescribed in Sections 9 and 10 of this Chapter.

SEC. 13. It shall and may be lawful for any persons, under the age of twenty-one years, having estates in lands, tenements or hereditaments, only in trust for others, or by way of mortgage, by the direction of the Court of Common Pleas, signified by an order made upon hearing all parties concerned, on the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons entitled to the moneys secured by or upon any lands, tenements or hereditaments, whereof any infant or infants are, or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements or hereditaments, in such manner as the said Court shall, by such order so to be obtained, direct, to any other person or persons.

Conveyance of estates held by infants in trust or by way of mortgage.

7 Ann. c. 19; 17 2, II, 546, 2. 1, 7.

5 Rich. Eq., 170

SEC. 14. Such conveyance or assurance so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infant or infants were, at the time of making such conveyance or assurance, of the full age of twenty-one years.

Confirmation.

Ib., 547, 1.

SEC. 15. All and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees as aforesaid, shall and may be compelled by such order, so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust estates or mortgages.

Infant trustee, &c., may be compelled to make such conveyance, &c

Ib., 2.

CHAPTER XCV.

OF SALES OF LAND UNDER EXECUTION.

SEC.

Property Liable.

1. Real estate made liable for debts, &c.
2. All estates held in trust may be sold under execution issued against the beneficiary.

Levy and Sale

3. Sheriff to keep memorandum of levy, &c.
4. Property taken in execution to be sold, &c.
5. Sheriff to advertise same.
6. Advertisement to contain what; publication.
7. Sale days.
8. Place of Sheriff's sales.
9. Hours of sale.
10. Sales to be for cash; provisions for re-sale.
11. Sheriff to make title to property sold by his predecessor.

Sales of Mortgaged Lands.

12. On obtaining judgment on bond, &c., secured by mortgage, premises may be sold; terms of sale, &c.
13. Mortgagor may pay judgment before sale
14. Time and place at which sales are to be made.

Property Liable.

Real estate made liable for debts, &c.

5 G. 2, c. 7; II, 571, § 4 (Code of Procedure, § 212.) 2 N. & McC., 47; 4 McC., 128; Bail. Eq., 98; 1 McC. Ch., 134; 2 Hill, 579.

SECTION 1. That the houses, lands, and other hereditaments and real estates, situate or being within this State, belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands, of what nature or kind soever, owing by any such person, and shall and may be assets for the satisfaction thereof, and shall be subject to the like remedies, proceedings and process as personal estates

All estates held in trust may be sold under execution issued against the beneficiary.

29 C. 2, c. 3. New, suggested by Petigru. 2 Hill, 527, 530. 8 Rich., 377.

SEC. 2. All estate, real or personal, which is held in trust for him against whom execution is sued, may be seized by the Sheriff or officer to whom the writ is delivered, and sold as the property of him that is entitled to the trust, in the same manner as if such property was held in his own name.

Levy and Sale.

Sheriff to keep memorandum of levy, &c.

18 9, XI, 50, 47. 1 Bay., 314; 10 Rich., 395; 12 Rich., 273.

SEC. 3. The Sheriff shall make a memorandum, in writing, of the date of every levy, and specify the property upon which such levy has been made on the process, or in a schedule thereunto annexed, and if more than one process be levied on such property, reference on each shall be made to such memorandum or schedule.

Property taken in execution, to be sold, &c.

1785, VII, 229, 5. 11 Rich., 109; 3 Hill, 289.

SEC. 4. When any Sheriff or other officer shall take the lands, tenements, goods and chattels, of any person whatsoever, by virtue of any execution, and the owner of such lands, tenements, goods and chattels, shall not, within five days after such taking, satisfy the party issuing such executions his debt, damages and costs, such Sheriff or officer shall and may sell, by auction, the lands, tenements, goods and chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment, for the best price that can be got for the same.

Sheriff to advertise same.

1797, V, 205, § 2; 1800, XI, 54, § 58; 1 N. & McC., 11. Rich. Eq. Ca., 122; 2 Rich. Eq., 4; 10 Rich., 395.

SEC. 5. The Sheriff of every County in this State shall, before he exposes any lands or tenements which he may be directed to sell by virtue of any execution or mortgage, publicly advertise the same three weeks immediately previous to the sale day or days on which he means to expose the same for sale.

Advertisement to contain what. Publication.

Ib.; 1796, V, 283, § 5; 1791, VII, 23, 26; 1849, XI, 508. 3 McC., 290.

SEC. 6. He shall specify in the advertisement the property to be sold, the time and place of sale, the name of the owner of the property, and the party at whose suit the sale is to be made, and shall publish the advertisement at three public places in the County, one whereof shall be the Court House door: *Provided*, That publication shall also be made in some gazette three times before the day of sale, in every County where a newspaper may be printed.

Sale days.
1791, VII, 263, § 9; 1839, XI, 54, § 58. 1 Hill, 304; 10 Rich., 448.

SEC. 7. The regular day of Sheriff's sale shall be the first Monday in each month: *Provided*, If there be not time to dispose of all the property on Monday, the next day following shall also be a regular sale day, if by public outcry on Monday notice of sale on the next day shall have been given. The Sheriff may sell property at any other time, when so ordered by a Court of competent authority.

Place of Sheriff's sales
Ib.

SEC. 8. The place of Sheriff's sales, as to real estate, shall be at the Court House of the County: *Provided*, The sales for Georgetown County may be conducted at the Market place, and those for Charleston County at the Exchange in Charleston; personalty may be sold at the place whereon it may be found by the Sheriff, upon levy, or such other more convenient public place as may be selected.*

Hours of sale.
1791, VII, 263, § 9; 1839, XI, 54, § 58.

SEC. 9. The hours of sale shall be between eleven and three o'clock, in Charleston County, and eleven and five, in each other County; but not at any time after notice given by the Sheriff that the sales for the day have been closed.

Sales to be for cash. Provisions for re-sale.
Ib.
2 Strob., 222; 3 Strob., 304; 4 Strob., 293; 5 Strob., 84; 4 Rich., 16; 6 Rich., 326; 14 Rich., 103.

SEC. 10. Every Sheriff's sale, made by virtue of the directions of an execution, shall be for cash; and if the purchaser shall fail to comply with the terms aforesaid, the Sheriff shall proceed to re-sell at the risk of the defaulting purchaser, either on the same, or some subsequent sale day, as the plaintiff may direct; and in the absence of any direction by the plaintiff, the Sheriff shall so re-sell on the same day, if practicable, and if not, on the next succeeding sale day, making, in every such case, proclamation that he is re-selling at the risk of such defaulting former purchaser.

Sheriff to make title to property sold by his predecessor.
1803, V, 457, § 25; 1829, VI, 394, § 1; 1839, XI, 55, § 61. 2 Hill, 395.

SEC. 11. In all cases where any Sheriff shall legally sell any real or personal estate, and such Sheriff shall die, resign, or otherwise go out of office, before he shall have executed titles therefor to the purchaser, it shall be lawful for any subsequent Sheriff of the same County, upon the terms of sale being complied with, or satisfactory evidence produced that they have been complied with to his predecessor who made the sale, to make and execute good and sufficient title to the purchaser for the property so sold.

Sales of Mortgaged Lands.

On obtaining judgment on bond, &c., secured by mortgage, premises may be sold; terms of sale, &c.
1791, V, 169, § 1. 1 Bail., 61; 4 McC., 336; 5 Rich. Eq., 343.

SEC. 12. That on judgment being obtained in the Court of Common Pleas, in an action on any bond, note, or debt, secured by mortgage of real estate, it shall be lawful for the Judge of the said Court to order the sale of the mortgaged property for the satisfaction of the moneys secured by the said mortgage, and to give a reasonable extension of the time when the sale is to take place, not exceeding the term of six months from the judgment, and also to give a reasonable credit on the sale of

*NOTE.—Since the adoption of Section 65, Act of 1839, xi, 56, relative to sales of property levied upon in St. Helena Parish, the Court House has been moved to the town of Beaufort, hence there is no longer any necessity for said Section.

the mortgaged premises, not exceeding the term of twelve months from the sale; and the mortgagor shall be forever barred and foreclosed by such sale from his equity of redemption.

Mortgagor may pay judgment before sale.
Ib., 170.

SEC. 13. If at any time before such sale, the mortgagor shall tender to or pay into the hands of the plaintiff, or his agent or attorney, or to the Sheriff, all the principal money and interest meant to be secured by such mortgage, and also all the costs of suit, the sale shall not take place, but the mortgagee shall enter satisfaction on the said mortgage, and the mortgaged premises shall be forever exempt from the said mortgage.

Time and place at which sales are to be made.
1791, VII, 276, § 15; 1839, XI, 54, § 58.

SEC. 14. All sales of mortgaged property shall be made in the several Counties, at the places, and at the times fixed by law for the sale of property under execution: *Provided*, That such sales may be made at other times, when so ordered by a Court of competent authority.

CHAPTER XCVI.

OF HOMESTEADS.

SEC.
1. Homestead to be set off; appraisers' value of homestead; provisoes.
2. When to be laid off and appraised.
3. Products of certain laborers.
4. Not to apply to taxes or obligations for purchase or improvement of homestead.
5. Homesteads of widows and minors.
6. How set off.
7. Sheriff, &c., to enforce executions only as provided by this Chapter.
8. Penalty for non-compliance.
9. Compensation of appraisers.

Homestead to be set off.

SECTION 1. That whenever the real estate of any head of a family residing in this State shall be levied upon by virtue of any mesne or final process issued from any Court upon any judgment obtained upon any right of action, whether arising previous or subsequent to the ratification of the Constitution of the State of South Carolina, if the same be the family homestead of such person, the Sheriff or other officer executing said process shall cause a homestead, such as said person may select, not to exceed the value of one thousand dollars, to be set off to said person in the manner following, to wit: He shall cause three appraisers to be appointed, one to be named by the creditor, one by the debtor, and one by himself, who shall be discreet and disinterested men, resident in the County, and shall be sworn by a Trial Justice to impartially appraise and set off, by metes and bounds, a homestead of the estate of the debtor, such as he may select, not to exceed the value of one thousand dollars; and the said appraisers shall proceed accordingly to set out the homestead, and the set-off and assignment so made by the appraisers shall be returned by the officer, along with said process, for record in Court; and if no complaint shall be made by either party, no further proceedings shall be had against the homestead, but the residue of the lands and tenements of the head of the family, if any more or other he shall have,

Appraisers, how to be appointed.

Value of homestead

shall be liable to attachment, levy and sale: *Provided*, That upon good cause shown, the Court out of which the process issued may order a re-appraisement and re-assignment of the homestead, either by the same appraisers or others appointed by the Court: *And provided, further*, That should the creditors or debtor neglect or refuse, after due notice from the officer executing the process, to nominate an appraiser, then said officer shall appoint the same.

Provisoes. 1868, XIV, 19, § 1. Con., Art 1, § 20, Art. 2, § 3. 10 Rich., 395; 1 S. C. R., 271.

SEC. 2. Whenever the personal property of the head of any family residing in this State, is taken or attached by virtue of any mesne or final process issued from any Court, and said person shall claim the said property, or any part thereof, as exempt from attachment by the provisions of Section 32 of Article II of the Constitution, whether the said person owns a homestead of real estate or not, it shall be the duty of the officer executing the said process to cause to be laid off and appraised such property as the said person may select, consisting of such articles as are enumerated in the Constitution, in the same manner as is prescribed in the preceding Section, not to exceed in value the aggregate sum of five hundred dollars.

When to be laid off and appraised. 1868, XIV, 20, § 2; 1870 XIV, 380, § 1. 11 Rich., 353.

SEC. 3. The products of agricultural laborers, mechanics, artisans and tradesmen of every description, shall be subject to like exemption as above stated, without regard to valuation, character or condition of products or earnings.

Products of certain laborers. Ib., § 2.

SEC. 4. The exemptions of Sections 1 and 2 of this Chapter shall not extend to an attachment, levy or sale on any mesne or final process issued to secure or enforce the payment of taxes or obligations contracted for the purchase of said homestead, or obligations contracted for the erection of improvements thereon: *Provided*, The Court or authority issuing said process shall certify thereon that the same is issued for some one or more, and no other, of said purposes: *Provided, further*, The yearly product of said homestead shall be subject to attachment, levy and sale to secure or enforce the payment of obligations contracted in the production of the same; but the Court issuing the process therefor shall certify thereon that the same is issued for said purpose, and no other.

Not to apply to taxes or obligations for purchase or improvement of homestead.

Provisoes. Ib., § 3.

SEC. 5. The estate or right of homestead of the head of any family, existing at his death, shall continue for the benefit of his widow and minor children, and be held and enjoyed by them until the youngest child is twenty-one years of age, and until the marriage or death of the widow, and be limited to that period; but all the right, title and interest of the deceased in the premises in which such estate or right exists, except the estate of homestead thus continued, shall be subject to the laws relating to devise, descent, dower and sale, for payment of debts against the estate of the deceased.

Widows and minors. Ib., § 4.

How set off.
Ib., 21, § 5.

SEC. 6. When a widow or minor children are entitled to an estate or right of homestead, as provided in the preceding Section, the same may be set off to the parties entitled by the Judge of the Probate Court, who shall appoint three disinterested persons resident in the County, who, having been duly sworn, shall proceed to appraise and set out, by metes and bounds, such homestead, and make return thereof to him. If no complaint shall be made against said appraisal and setting out of the homestead within twenty days thereafter, by any party interested therein, or any good cause appear to the contrary, the same shall be confirmed by the Judge, and ordered accordingly.

Sheriff, &c., to enforce executions only as herein provided.
1868, XIV, 172, § 1.

SEC. 7. That no Sheriff, Constable or other officer, whose duty it is to enforce executions, shall proceed in any other manner than that prescribed by Sections 1 and 2 of this Chapter.

Penalty for non-compliance.
Ib., § 2.

SEC. 8. Should any officer sell any real estate without complying with Section 1 of this Chapter, or sell or remove any personal property of the head of any family, whether the head of such family is a freeholder or not, without his or her consent, or first deducting the amount exempted by Section 32 of Article II of the Constitution of the State of South Carolina, in the manner provided by Sections 2, 5 and 7 of this Chapter, he shall be deemed guilty of malfeasance in office, and on conviction thereof shall, for the first offence, be fined in a sum not less than five hundred (500) dollars, nor more than one thousand (1,000) dollars, and for the second offence, shall be dismissed from office; and in either case shall be liable to the parties for all injuries by reason of his wrongful levy or sale.

Compensation of appraisers.
1868, XIV, 1, § 6.

SEC. 9. Appraisers appointed to set out the homestead under this Chapter shall receive as compensation two dollars per day each, for such services, and the same shall be paid by the officer executing the process, out of the property of the debtor; or, in case of the homestead set out to a widow or minor children, out of the estate of the deceased, by the executor or administrator thereof.

CHAPTER XCVII.

OF THE ASSIGNMENTS OF INSOLVENT DEBTORS.

SEC.
1. Creditors to appoint agents to act with assignees.
2. Creditors to be called together; sales before appointment of agents, void.
3. Refusal of assignees to call creditors together.
4. Majority of debts represented to govern; assignees and agents of creditors to act jointly.
5. Refusal of creditors to appoint agents.
6. Proceeds of sales to be deposited.
7. Umpire to be appointed in case of disagreement.
8. Statement of proceedings to be made every three months.
9. Commissions allowed.

Creditors to appoint agents.
1828, VI, 365, § 1.

SECTION 1. That whenever any debtor shall assign his or her property, for the benefit of his or her creditors, it shall be lawful for the said creditors to name and appoint an agent or agents equal in number to the assignees, to act in their behalf, jointly with the assignee or assignees named and appointed by the assignor.

SEC. 2. It shall be the duty of the assignee or assignees, within ten days after the execution of the deed of assignment, to call the creditors together, to proceed to the appointment of their agent or agents; and all sales and transfers of property made by the assignee or assignees prior to the appointment of the agent or agents of the creditors, are hereby declared void and of no effect.

Creditors to be called together.
Ib., 486, § 2.
6 Rich., 487; 2 Hill Ch., 442.

SEC. 3. In case the assignee or assignees delay, neglect or refuse to assemble the creditors within the time herein prescribed and limited, it shall be lawful for the creditors to meet and appoint their agent or agents; and the said agent or agents, on application to, and by order of the Judge of the Court of Common Pleas, shall take into his hands and possession all the property assigned, and of which the assignee would by law be entitled to the possession, and shall sell and dispose of the same, agreeably to the deed of assignment.

Refusal of assignees to call creditors together.
Ib.

SEC. 4. In the appointment of the agent or agents, the majority in amount of the debts represented by the creditors present at the meeting shall govern; and the agent or agents so appointed shall have equal power and authority with the assignee or assignees, to sell and dispose of the property assigned, and distribute and pay the proceeds, according to the intent and provisions of the deed of assignment; and all sales, hypothecations or other transfers of property, whether real or personal, shall be void and null, unless made with the consent and concurrence of the assignee or assignees, and agent or agents, or a majority of them; and should the assignee or assignees and agent or agents be equally divided on any question, the same shall be decided by an umpire, appointed as is hereafter provided.

Majority of debts represented to govern; assignees and agents of creditors to act in concert.
Ib., § 3.

SEC. 5. Should the creditors as aforesaid refuse or neglect to appoint an agent or agents, in ten days after they have been called together by the assignee or assignees, the assignee or assignees may forthwith proceed to sell or otherwise dispose of the assigned effects, without the concurrence of the said creditors.

Refusal of creditors to appoint agents.
Ib.

SEC. 6. The proceeds arising from the sales of the property assigned shall be deposited for safe keeping in a national bank within the State, or some banking institution incorporated by the State, in the joint names of the assignee or assignees, and agent or agents, and subject to their joint drafts.

Proceeds of sales to be deposited.
Ib., § 4.
Amended by Com'rs.

SEC. 7. In case of disagreement between the assignee or assignees and agent or agents, any of the Judges of the Courts of Common Pleas, at Chambers, shall, on application of either of the parties, decide, and if deemed necessary, name and appoint an umpire to act jointly with the assignee or assignees and agent or agents.

Umpire to be appointed in case of disagreement.
Ib., § 5.

Statement of proceedings to be made every three months.
Ib., § 6.

SEC. 8. It shall be the duty of the assignee or assignees, and agent or agents, to lay, every three months, before the creditors, or such committee as they may appoint, an exact statement of their proceedings; the creditors, or their committee may, however, call the assignee or assignees, and agent or agents, oftener to account; they may, also, direct and prescribe the time and mode of selling, and the terms of sale, order a distribution of the assets on hand, and a final close of the concern; and, in case of need, may revoke and dismiss their agent or agents, and name and appoint another in his stead; and the said assignee or assignees, and agent or agents, failing or neglecting to lay the statement of their proceedings before the creditors or their committee, as herein directed, or whenever called on, or to obey or abide by their directions, shall be answerable for all damages resulting from their refusal or neglect, and forfeit the commission they might otherwise be entitled to.

Commissions allowed
Ib., § 7.
7 Rich. Eq., 157.

SEC. 9. The commission due and owing to the assignee or assignees, and agent or agents, for their trouble and labor, shall be five per centum on receiving, and two and a half per centum on paying, to be equally divided between them, that is to say, one-half to the assignee or assignees and the other half to the agent or agents.

TITLE VI.

CHAPTER XCVIII.

OF THE PREVENTION OF FRAUDS AND PERJURIES.

SEC.
1. Parol leases, &c., shall have the force of estates at will only; proviso.
2. No leases, &c., shall be assigned, &c., by parol.
3. Promises and agreements by parol.
4. Contracts for sales of goods.
5. Parol gifts.
6. Verbal agreements of sale reserving any interest to vendor, void as against creditors.

Parol leases, &c., shall have the force of estates at will only.
29 C. 2, c. 3; 171 C. II, § 5, § 1, 2
2 Lev., 227.
Ante, Chap. 84, § 3.

SECTION 1. That all estates, interests of freehold, or terms of years, or any uncertain interest of, in, to or out of any lands, tenements, or hereditaments, made or created by livery and seizin only, or by parol, and not put in writing and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized, by writing, shall have the force and effect of estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect; any consideration for making any such parol leases or estates, or any former law or usage, to the contrary notwithstanding, except leases not exceeding the term of one year from the time of entry, whereupon the rent reserved to the landlord during such term shall amount unto two third parts, at the least, of the full improved value of the thing demised.

SEC. 2. No leases, estates or interests, either of freehold, or term of years, or any uncertain interest of, in, to or out of any lands, tenements, or hereditaments, shall at any time be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or his agent thereunto lawfully authorized by writing, or by act and operation of law.

No leases, &c., shall be assigned, &c., by parol.
Ib., § 3.

SEC. 3. No action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant upon any special promise, to answer for the debt, default or miscarriage of another person; or to charge any person upon any agreement made upon consideration of marriage; or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement that is not to be performed within the space of one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

Promises and agreements by parol.
Ib., § 4.
1 Shower, 16; Skinn, 142, 143; 2 Mod., 310; 1 Vent., 361, 362; 3 Lev., 65, 66; 1 Salk., 289; 1 N. & McC., 124; 3 Strob., 177; 3 Strob., 207, 198; 3 Hill, 48; 1 Sp., 4; 2 McM., 372; 1 Hill, 172; 1 McC., 486, 575; 2 Bail., 581; 1 McC., 100; 3 Hill, 40; 2 McM., 60; 1 Bail., 14; 2 McC., 208; 3 McC., 158, 162, 421, 458; 2 McC. Ch., 151; 3 McC., 486; 4 McC., 409; 1 Bail, 419; 2 Bail, 614; 1 Hill Ch., 159; 1 Hill Ch., 465; 2 McC. Ch., 269; 1 Harp. Eq., 156, 258; 2 DeS Eq., 171; 1 McC., 425; 5 Rich., 16; 1 McM., 257; 1 Rich., 408; 2 Rich., 375; Cheves, 68; 12 Rich., 176; Rich. Eq. Ca., 5; McM. Eq., 87.

SEC. 4. No contract for the sale of any goods, wares and merchandises, for the price of fifty dollars or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

Contracts for sales of goods
Ib., 52, § 17.
1 Mill, 71; Dudley, 142; 1 McM., 453; 5 Strob., 129; 2 Sp., 292; 9 Rich., 103; 10 Rich., 60; 11 Rich., 347; McM. Eq., 87.

SEC. 5. No parol gift of any chattel shall be valid against subsequent creditors or purchasers or mortgages, except where the donee shall live separate and apart from the donor, and actual possession shall, at the time of the gift, be delivered to and remain and continue in the donee, his or her executors, administrators or assigns.

Parol gifts.
1833, VI, 483, § 2.
7 Rich. Eq., 509.

SEC. 6. Every verbal agreement between the vendor and vendee of personal property, whereby the vendor who has parted with the possession thereof to the vendee, shall reserve to himself any interest in the same, shall be null and void as to subsequent creditors or purchasers for valuable consideration without notice.

Verbal agreements of sale, reserving any interest to vendor, void against creditors.
1843, XI, 256, § 3.

TITLE VII.

OF THE DOMESTIC RELATIONS.

CHAPTER XCIX. *Of Marriage.*
C. *Of Certain Rights and Liabilities of Husband and Wife.*
CI. *Of Guardians and Wards.*
CII. *Of the Change of Names.*
CIII. *Of Masters, Apprentices and Laborers.*

CHAPTER XCIX.

OF MARRIAGE.

SEC.
1. Who may contract matrimony.
2. Marriage contracted and consummated, indissoluble.
3. Void marriages; proviso.

Who may contract matrimony.

32 H. 8, c. 38; 1712, II, 476, § 2. Amended by Com'rs.

SECTION 1. That all persons, except idiots and lunatics, not prohibited by this Section, may lawfully contract matrimony. No man shall marry his mother, grand-mother, daughter, grand-daughter, step-mother, sister, grand-father's wife, son's wife, grand-son's wife, wife's mother, wife's grand-mother, wife's daughter, wife's grand-daughter, brother's daughter, sister's daughter, father's sister, or mother's sister. No woman shall marry her father, grand-father, son, grand-son, step-father, brother, grand-mother's husband, daughter's husband, grand-daughter's husband, husband's father, husband's grand-father, husband's son, husband's grand-son, brother's son, sister's son, father's brother, or mother's brother.

Marriages contracted, consummated, indissoluble.

Ib., § 2. 2 DeS. Eq., 644, *a*; 2 Rich., 220; Rich. Eq. Ca., 92.

SEC. 2. All marriages contracted between lawful persons, and solemnized in the face of the church, and consummate with bodily knowledge, or fruit of children or child shall be deemed, judged and taken to be lawful, good, just and indissoluble, notwithstanding any pre-contract or pre-contracts of matrimony not consummate with bodily knowledge, which either of the parties so married or both shall have made with other person or persons before the time of contracting such marriage.

Marriages void. Proviso.

New. 1 J. 1, c. 11; 1712, II, 208, §§ 1, 2, 3. 2 Bay., 476; 4 McC., 256.

SEC. 3. All marriages contracted while either of the parties has a former wife or husband living, shall be void: *Provided*, That this Section shall not extend to a person whose husband or wife shall be absent for the space of seven years, the one not knowing the other to be living during that time; nor to any person who shall be divorced, or whose first marriage shall be declared void by the sentence of a competent Court; nor shall it extend to any person by reason of a former marriage made within the age of consent.

CHAPTER C.

Of Certain Rights and Liabilities of Husband and Wife.

Sec.
1. Married women may hold property separate from their husbands.
2. May bequeath and convey, as if unmarried; property descends as does property of husbands.
3. May purchase property, take conveyances and make contracts as if unmarried; husbands not liable for debts of wife.
4. Marriage settlements must describe property included therein or have a schedule annexed.
5. No marriage settlement valid unless recorded within three months.

Section 1. That the real and personal property of a married woman, whether held by her at the time of her marriage or accrued to her thereafter, either by gift, grant, inheritance, devise, purchase or otherwise, shall not be subject to levy and sale for her husband's debts, but shall be her separate property.

Married women may hold separate property.
1870, XIV, 325, § 1; Con., Art. XIV, § 8.

Sec. 2. A married woman shall have power to bequeath, devise or convey her separate property in the same manner and to the same extent as if she were unmarried; and if dying intestate, her property shall descend in the same manner as the law provides for the descent of the property of husbands; and all deeds, mortgages and legal instruments of whatever kind, shall be executed by her in the same manner, and have the same legal force and effect as if she were unmarried.

May bequeath and convey as if unmarried; property descends as does property of husbands.
Ib., § 2. (See Chapter LXXXV).

Sec. 3. A married woman shall have the right to purchase any species of property in her own name, and to take proper legal conveyances therefor, and to contract and be contracted with in the same manner as if she were unmarried: *Provided*, That the husband shall not be liable for the debts of the wife contracted prior to or after their marriage, except for her necessary support.

May purchase, &c., as if unmarried; husbands not liable for wife's debts.
Ib., § 3.

Sec. 4. All marriage contracts, deeds and settlements, shall therein describe, specify and particularize the real and personal estate thereby intended to be included, comprehended, conveyed and passed, or shall have a schedule thereto annexed, containing a description and the particulars and articles of the real and personal estate intended to be conveyed and passed by such marriage contracts, deeds and settlements; which said schedule shall be thereto annexed, and signed, executed and delivered by the parties therein interested, at the time of the signing, executing and delivering the said marriage contracts, deeds and settlements, and be subscribed by the same witnesses who subscribed the said marriage contracts, deeds or settlements, and shall be recorded therewith; otherwise, and in default of such schedule and recording thereof as aforesaid, the said marriage contracts, deeds and settlements shall be deemed and declared to be fraudulent, null and void, with respect to and against creditors and *bona fide* purchasers or mortgagees.

Marriage settlements must describe property included therein.
1792, V, 203, § 2. (See 1795, IV, 655, § 1. 4 DeS., 550; 1 DeS., 408, 437; 2 DeS., 264; Harp. Eq., 72; Bailey Eq., 244; 2 Hill Eq., 558, 180; Rich. Eq. Ca., 209; 1 Hill Eq., 143; 2 Riley Eq., 271; 1 Rich., 187; 1 Strob. Eq., 347; 7 Rich., 136.

Must be recorded within three months.

1823, VI, 213, § 2.

1 DeS., 237; 1 McM. Eq., 149; Rice Eq., 315; 1 Rich., 187; 1 S. C. R., 448.

SEC. 5. No marriage settlement shall be valid until recorded in the office of the Secretary of State, and in the office of the Register of Mesne Conveyances of the County where the parties reside: *Provided*, That the parties shall have three months to record the same, and, if not recorded within three months, the same shall be null and void.

CHAPTER CI.

OF GUARDIANS AND WARDS.

SEC.

Guardians.

1. To give bond; sureties, how relieved.
2. To render annual accounts; penalty.
3. Proceedings against sureties.
4. In case of removal from State, &c., of guardian.
5. To apply for partition where lands descend in coparcenary.
6. May maintain action for recovery of ward and damages for detention.
7. May take charge of property belonging to their wards; may bring action in relation thereto.
8. Guardians holding estates after death of minor tenant for life, trespassers.
9. Value of profits during wrongful possession recoverable in damages against such guardians.
10. Commissions.
11. Commissions payable to deceased guardian's estate.

Minors.

12. A father may dispose of the custody of his minor children, in possession or remainder.
13. Such disposition valid.
14. Employers of minors liable to parents or guardians.

Guardians.

To give bond; sureties, how relieved.

1839, XI, 68, § 33.

2 McC. Ch., 43; 2 Hill Ch., 277; McM. Eq., 3 0; 1 Rich. Eq., 56; 4 Strob. Eq., 171.

SEC. 1. That the Judge of Probate, on appointing a guardian to any estate, shall require him to enter into bond to himself and his successors, in a penalty of double the amount of such estate, and shall have the same power, as to relieving the sureties of a guardian, which is given to him in the case of relieving the sureties of an administrator.

To render annual accounts; penalty.

1745, III, 667, § 6; 1824, VII, 327, § 10; 1839, XI, 68, § 33.

SEC. 2. All guardians of estates, appointed by the Judge of Probate, shall render to him an annual account of their actings and doings, as executors or administrators are required by law to do, and upon making default, shall forfeit their commissions.

4 Rich. Eq., 392; 9 Rich. Eq., 311, 408.

Proceedings against sureties.

Ib., 67, § 31.

3 McC., 237; 1 Rich., 5; 1 McC., 121.

SEC. 3. Any Judge of Probate shall have power to pronounce a decree against any guardian by him appointed, upon final account, which shall authorize such proceedings against the sureties of such guardian as may be taken in the like cases against the sureties of an administrator.

In case of their removal from State.

Ib., 68, § 33.

SEC. 4. In case of removal from the State, or the death of any guardian not represented by an executor or administrator, the Judge of Probate shall take the same measures for an account and decree against him, which shall have the like force and effect against his sureties and estate, as is provided by law respecting an administrator.

SEC. 5. The guardian or guardians of children under age, shall be required and directed to apply to the Probate Court for an order of partition, in all cases where any lands shall be given or descend to such children, in coparcenary, joint tenancy or tenancy in common, (and no provision made by will or otherwise how such lands shall be divided,) in case such children shall neglect so to do by the space of twelve months after becoming of age.

To apply for partition where lands descend in coparcenary, &c., in case wards neglect to do so, &c.

1748, III, 708, § 3.

SEC. 6. Any person or persons, to whom the custody of any child or children has been or shall be disposed or devised, as provided by Sections 12 and 13 of this Chapter, shall and may maintain an action against any person or persons who shall wrongfully take away or detain such child or children, for the recovery of such child or children, and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

May maintain action for recovery of children, and for damages for detention

Ib., § 1.

SEC. 7. Any person or persons to whom the custody of any child or children has been or shall be disposed or devised, as provided by said Sections 12 and 13, shall and may take into his or their possession, to the use of such child or children, the profits of all lands, tenements and hereditaments of such child or children, and also the custody, direction and management of the goods, chattels and personal estate of such child or children, till their respective age of one and twenty years, or any lesser time, according to such disposition aforesaid, and may bring such action or actions, in relation thereunto, as by law a guardian in common socage might do.

May take charge of property belonging to their wards.

Ib., § 2.

May bring actions relating thereto.

SEC. 8. Any person who, as guardian or trustee for any infant having any estate determinable upon the life or lives of such infant or infants, who, after the determination of such particular estate or interest, without the express consent of him, her or them, who are or shall be next and immediately entitled upon and after the determination of such particular estate or interest, shall hold over and continue in possession of any lands, tenements or hereditaments, shall be adjudged to be trespassers.

Guardians, &c., holding estates after death of minor tenant for life, trespassers.

6 Ann, c. 18; 1812, II, 563, § 5.

SEC. 9. Any person or persons, his, her or their executors and administrators, who are or shall be entitled to any such lands, tenements and hereditaments, upon or after the determination of such particular estate or interest, shall and may recover in damages against every such guardian or trustee so holding over, as aforesaid, and against his, her or their executors or administrators, the full value of the profits received during such wrongful possession as aforesaid.

Value of profits during wrongful possession recoverable in damages against such guardians.

Ib.

SEC. 10. All guardians having the care of the estates of minors, idiotic and insane persons, and persons *non compotes mentis*, shall have the same commissions for their services as are allowed by law to executors, administrators, and other trustees.

Commissions.

1745, III, 668, § 12; 1789, V, 112, § 29.

1 Hill Ch., 183; Rich. Eq. Ca., 63; 2 Strob. Eq., 31; 3 Rich. Eq., 13; 4 Rich. Eq., 392; 8 Rich. Eq., 248; 13 Rich. Eq., 195.

Commissions payable to deceased guardian's estate.
1850, XII, 825, § 1.
14 Rich. Eq., 304.

SEC. 11. When any guardian of an infant dies after receiving any of the funds of his or her ward, the estate of such deceased guardian shall be allowed commissions for paying over, as well as for receiving, the funds of such ward remaining in the hands of such guardian at the time of his or her death: *Provided*, The payment over is made to the ward, and not to another guardian.

Minors.

A father may dispose of the custody of his minor children, to person in possession or remainder.
1748, III, 708, § 1.

SEC. 12. That it shall and may be lawful to and for the father of any child or children, under the age of twenty-one years and not married, whether born at the time of the decease of the father, or his wife at that time shall be with child, or whether such father shall be under the age of twenty-one years, or of full age, by his deed, executed in his lifetime, or by his last will and testament, in writing, in the presence of two or more credible witnesses, in such manner, and from time to time as he shall respectively think fit, to dispose of the custody and tuition of such child or children for and during such time as he or they shall respectively remain under the age of one and twenty years, to any person or persons, in possession or remainder.

Such disposition valid.
Ib
5 Strob., 8.

SEC. 13. Such disposition of the custody of such child or children shall be good and effectual against all and every person and persons claiming the custody of such child or children, as guardian in socage or otherwise.

Employers of minors liable to parents or guardians.
1871, XIV, 545, § 1.

SEC. 14. If any person shall hire or employ any minor, or person under the age of twenty-one years, without the knowledge and consent of the parents or guardian of such minor, such person shall pay to the said parents or guardian the full value of the labor of said minor from and after notice from the parents or guardian that payment for such service shall be made to him or them, as the case may be, or be imprisoned in the County jail for a period of six months.

CHAPTER CII.

OF THE CHANGE OF NAMES.

SEC.
1. Persons desiring to change their names to apply in open Court.
2. Court to exercise discretion.
3. Duty of Clerk; proceedings to be recorded with Secretary of State; when name changes.
4. To sue, &c., by new name; old suits.
5. Effect on old obligations.

Persons desiring to change their names to apply in open Court.
1844, V, 718, 1.

SECTION 1. That it shall and may be lawful for any person who may be desirous of changing his or her name for that of another, to exhibit his or her petition, in writing, to any of the Judges of the Circuit Court of this State, in open Court, setting forth in said petition the reasons why he or she is desirous of changing his or her name, together with his or her age,

place of residence and nativity, and the name by which he or she wishes thereafter to be called and known.

Court to exercise discretion. Ib.

SEC. 2. Upon said petition and the reasons therein contained, it shall be the duty of the Judge to determine, and grant or not grant the prayer thereof, as to him shall appear proper, having a due regard to the true interest of the petitioner.

Duty of clerk; proceedings to be recorded with Secretary of State; when name changes. Ib.

SEC. 3. Whenever the prayer of such petition shall be granted, it shall be the duty of the Clerk of said Court to enter the same on the minutes of the Court, and to file the original petition, with the *fiat* of the Judge, among the papers of his office; and to deliver to the petitioner a true copy of said petition, together with a copy of the Judge's order thereon, properly certified, and under the seal of said Court; for which the said Clerk shall be entitled to and receive from the petitioner the sum of five dollars, and no more. Such proceedings so certified, on being produced to the Secretary of this State, shall by him be recorded in a book to be by him kept in his office for that purpose, whose duty it shall be forthwith to deliver to the petitioner a true copy of such record, with the seal of this State affixed, for which the said Secretary shall be entitled to and receive from the petitioner the sum of five dollars, and no more. And upon the seal of the State being affixed to the record aforesaid, and delivered to the petitioner, his or her name shall be, and is thereby, immediately, changed to that contained in the said record.

To sue, &c., by new name; old suits. Ib., 719, § 2.

SEC. 4. In all cases the person so changing his or her name may sue and be sued, plead and be impleaded, by his or her new name, and no other. In all cases where an action or actions shall be pending at the time of such alteration of names, the same shall not abate by the party's name being changed, but the record on motion shall be amended by expunging the old name, and inserting the new name of the party.

Effect on old obligations. Ib.

SEC. 5. In all cases, where the party changing his or her name is bound by obligation or otherwise, the effect of which obligation would extend to and impose any obligations on the heirs, executors or administrators of the person so having changed his name, the same heirs shall be and remain bound to all intents and purposes, in the same manner and to the same extent as if the said party had not changed his or her name.

CHAPTER CIII.

Of Masters, Apprentices and Laborers.

SEC.
1. Persons may take and teach one or more apprentices.

Indentures.

2. Infant apprentices, how bound, &c.; all indentures not properly executed and certified, void.
3. Assignment of indentures to be certified by Trial Justice.
4. Master dying, executor or administrator may retain apprentice if he carries on the same business; if not, may assign indentures to some one who does.
5. Such indenture valid to executor retaining or to assignee.

Rights and Liabilities of Apprentices.

6. Lawfully indented apprentices bound to serve out period mentioned in indenture.
7. Males not obliged to serve after twenty-one; females after eighteen.
8. Two Trial Justices to have jurisdiction of complaints by and against apprentices, subject to appeal.

Protection of Laborers.

9. Contracts to be read to laborers and witnessed.
10. Share of crops to be divided by disinterested persons; division.
11. Laborers to have liens upon crops.
12. Violation of contracts, and fraud.
13. Penalty if Trial Justices refuse to perform duty under this Chapter.

Certain Liabilities of Managers or Overseers.

14. Liable for forfeited rice, &c., in certain cases.

Persons may take and teach one or more apprentices.

1740, III, 544, § 3.

SECTION 1. That it shall and may be lawful to and for any person or persons within this State, to take one or more apprentice or apprentices, indented according to the directions of this Chapter, and to teach such apprentice or apprentices the lawful business, art, trade and mystery specified in the indenture or indentures of such apprentice or apprentices, during the time therein limited, and to retain and keep in his or their service such apprentice or apprentices until the expiration of the said time, or until such apprentice or apprentices shall be lawfully discharged.

Indentures.

Infant apprentices, how bound, &c.

1839, XI, 32, § 25; 1740, III, 516, § 2.

SEC. 2. It shall be the duty of any Trial Justice to whom application is made by a person desiring to become the master or mistress of any infant to be bound to service by indenture according to law, to certify under his hand and seal upon such indenture, the presence and approbation of the father, mother, or guardian of such infant, at the time it was executed; and in case such infant so to be apprenticed shall have neither father, mother, or guardian, to approve such indenture, then the presence and approbation of the grand-father, grand-mother, or brother, sister, uncle or aunt of mature age, or of his own approval of such indenture, to be certified thereon, each in the order herein established and enumerated, and in like manner shall certify the approval of such persons as above designated, which indenture or indentures, so executed and certified as aforesaid, shall be good and effectual, to all intents and purposes, as if such apprentice had been of full age, and by indenture of covenant had bound him or herself; or, otherwise shall be void and of none effect.

All indentures not properly executed and certified, void.

Assignment of indenture to be certified by a Trial Justice.

1839, XI, 32, §

SEC. 3. In the same manner, any Trial Justice shall certify the assent of the same parties, in like order, to the assignment and transfer of such indenture for sufficient cause, by the master or mistress, to any person exercising the employment specified therein, which said indenture, so

assigned, shall be valid and effectual to the assignee, as to the time remaining unexpired, as if the said apprentice had been originally indented to such assignee; and the said assignee, on accepting such assignment, shall be equally bound to the said apprentice, according to the tenor of the said indenture, as the original master or mistress was.

25; 1740, III, 545, § 4.
1 N. & Mc., 263.

SEC. 4. The time of service of any apprentices who are, or shall be, indented to serve their masters, mistresses, their executors or assigns in this State, remaining unexpired at the time of the death of any of the masters or mistresses of such apprentices, and not before assigned in manner aforesaid, shall be deemed and taken as assets in the hands of the executors or administrators of any such masters or mistresses, and it shall and may be lawful to and for such executors or administrators to retain any such apprentices in their own service during the remainder of such time: *Provided*, The executor or administrator so retaining such apprentice does, at the time of such retainer, carry on and exercise (by himself or some other person in his employ) within the same County where the testator lived, the same employment, calling, art, mystery or trade, to which the said apprentice was bound by his indentures; or, otherwise, if the executors or administrators of such deceased person think fit, it shall be lawful for them to assign and transfer such indenture and the time therein unexpired, with the consent of the same persons, in like order, and in the same manner, certified by a Trial Justice, to any other person carrying on and exercising within this State the same employment, calling, art, mystery or trade, specified in the said indenture.

Master dying, executor or administrator may retain apprentice, if he carries on the same business; if not, may assign indentures to some one who does.

1830, XI, 32, § 25; 1740, III, 545, § 5.

SEC. 5. Such indenture, so retained or assigned, shall be valid and effectual to the executor or administrator so retaining, and to such assignee, as to the time remaining unexpired, as if the said apprentice had been originally indented to such executor, administrator or assignee; and the said executor, administrator and assignee, on retaining such apprentice or accepting such assignment, shall be equally bound to the said apprentice, according to the tenor of the indenture, as the original master or mistress was.

Such indenture valid to executor retaining or to assignee.

Ib.

Rights and Liabilities of Apprentices.

SEC. 6. Any person that shall be bound by indenture to serve as an apprentice within this State, in any lawful employment, calling, art, mystery or trade, although such apprentice shall have been within the age of twenty-one years at the time of making such indenture, shall be bound to serve for the number of years in such indenture contained, as fully and effectually, to every intent, as if the said apprentice had been of full age at the time of making such indenture, and shall be bound, accepted and taken as an apprentice, accordingly: *Provided, always*, That such apprentice shall be indented in the manner and according to the directions of this Chapter.

Lawfully indented apprentices, bound to serve out period mentioned in indenture.

1740, III, 544, § 1.
1 Tr., 117.

Males not obliged to serve after twenty-one, females after eighteen.
Ib.

SEC. 7. Nothing in this Chapter contained shall extend to oblige any male apprentice to serve after he shall have attained the age of one and twenty years, or a female after she shall have attained the age of eighteen years.

Two Trial Justices to have jurisdiction of complaints by and against apprentices, subject to appeal.
1839, XI, 32, § 25; 1740, III, 745, 6
2 McC, 23; 1 Bailey, 209.

SEC. 8. On complaint made by an apprentice, charging his or her master or mistress with misuse, or by the master or mistress against such apprentice, before any two Trial Justices of the County, setting forth the cause of such complaint, it shall be the duty of such Trial Justices to make such order between the parties as the equity and justice of the case may require, subject, nevertheless, to the right of either party to appeal from such order to the Court of Common Pleas for the County at the next ensuing term.

Protection of Laborers.

Contracts to be read to laborers and witnessed.
1839, XIV, 227, § 1.

SEC. 9. That all contracts made between owners of land, their agents, administrators or executors, and laborers, shall be witnessed by one or more disinterested persons, and, at the request of either party, be duly executed before a Trial Justice, whose duty it shall be to read and explain the same to the parties. Such contracts shall clearly set forth the conditions upon which the laborer or laborers engaged to work, embracing the length of time, the amount of money to be paid, and when; if it be on shares of crops, what portion of the crop or crops.

Share of crops to be divided by disinterested persons; division.
Ib, 228, 2.

SEC. 10. Whenever labor is performed under contract on shares of crop or crops, such crop or crops shall be gathered and divided off before it is removed from the place where it was planted, harvested or gathered. Such division to be made by a disinterested person, when desired by either party to the contract. And such disinterested party shall be chosen, by and with the consent of the contracting parties, whenever the parties fail to agree upon any disinterested party, or, if complaint is made that the division has been unfairly made, within ten days after such division it shall be the duty of the Trial Justice residing nearest the place where such crop or crops are planted, harvested or gathered, to cause, under his immediate supervision, such equitable division as may be stipulated in the contract. Such disinterested party or Trial Justice shall receive a reasonable compensation for such service, to be paid by both of the contracting parties, according to their several interests, except in cases of an attempt to willfully defraud the other by one of the contracting parties; and then such compensation shall be paid by the party so attempting to defraud the other. When such division has been made, each party shall be free to dispose of their several portions as to him or her or them may seem fitting: *Provided,* That if either party be in debt to the other for any obligation incurred under contract, the amount of said indebtedness may be then and there settled and paid by such portion of the share or shares of the party so indebted as may be agreed upon by the parties themselves, or set apart by the Trial Justice, or any party chosen to divide said crop or crops.

Laborers to have lien upon crops. Ib., § 3.

SEC. 11. Whenever laborers are working on shares of crop or crops, or for wages in money or other valuable consideration, they shall have a prior lien upon said crop or crops, in whosesoever hands it may be. Such portion of the crop or crops to them belonging, or such amount of money or other valuable consideration due, shall be recoverable by an action in any Court of competent jurisdiction.

Violation of contracts and fraud. Ib., § 4.

SEC. 12. Whenever such contract or contracts are violated, or attempted to be violated or broken, or whenever fraud is practiced, or attempted to be practiced, by either party to such contract or contracts, at any time before the conditions of the same are fulfilled and the parties released therefrom, complaint may be made before a Trial Justice, or may be carried before any Court having jurisdiction in such cases, where the extent and character of the offence shall be determined. If the offending party be the land owner or owners, his, her, or their agent or agents, and fraud has been practiced, or attempted to be practiced, either in keeping any account or accounts between him, her, or them, and the other party or parties to such contract or contracts, or in the division of the crop or crops, or the payment of money or other valuable consideration, upon proof to conviction, such offender or offenders shall forfeit and pay a fine, not less than fifty (50) dollars, nor more than five hundred (500) dollars; or if it be a disinterested party chosen to make a division or divisions of crops hereinbefore provided, he, she, or they, shall be liable to prosecution as for a misdemeanor, and shall be tried in any Court of competent jurisdiction, and, on proof to conviction, be fined in a sum not less than fifty nor more than five hundred dollars, or be imprisoned for a period not less than one month nor more than one year, at the discretion of the Court. If the offending party be a laborer or laborers, and the offence consist either in failing willfully and without just cause to give the labor reasonably required of him, her, or them, by the terms of such contract, or in other respects shall refuse to comply with the conditions of such contract or contracts, or shall fraudulently make use of or carry away from the place where the crop or crops he, she, or they may be working are planted, any portion of said crop or crops, or anything connected therewith or belonging thereto, such person or persons so offending shall be liable to fine or imprisonment, according to the gravity of the offence upon proof to conviction before a Trial Justice, or a Court of competent jurisdiction.

Penalty if Trial Justice refuse to perform duty under this Chapter. Ib., 229, § 5.

SEC. 13. Any Trial Justice or other officer before whom complaint is made, and whose duty it is to try such cases as is hereinbefore provided, who shall offend against the true intent and meaning of this Chapter, or shall refuse to hear and determine, impartially, all cases that may be brought before him, under the provisions of this Chapter, and all peace officers, whose duty it is to apprehend all offenders against the laws of the State, who shall refuse to perform their duty in bringing to justice any and all offenders against this Chapter, shall be liable to a charge of malfeasance in office, and, upon proof to conviction, shall be forthwith re-

moved from office, and fined a sum not less than fifty nor more than one hundred dollars.

Certain Liabilities of Managers or Overseers.

Liable for forfeited rice, &c. in certain cases.

1746, III, 688, § 9. (See Chap. 51, §§ 9, 31.)

SEC. 14. Whenever any rice, pitch or rosin shall be sent from any plantation, under the care or management of an overseer or manager, and where the employer does not then live, nor shall happen to be present, if such rice, pitch or rosin shall be forfeited, on account of any unfair or fraudulent mixture, the loss of rice, pitch or rosin so forfeited shall fall upon the overseer or manager of that plantation where the same was packed or filled, and the master or owner of the said plantation shall have power to deduct the value of the rice, pitch or rosin so forfeited, out of the wages, share or stipend of such overseer or manager, or recover the same by legal process if he shall think proper, unless such overseer or manager shall make it appear, by the evidence of some person, that, to the best of his, the said person's opinion and belief, the barrels which contained the same were well headed and nailed or pegged in his presence, and that he saw the rice, pitch or rosin fairly packed or filled in the same.

PART III.

OF COURTS AND JUDICIAL OFFICERS, AND PROCEEDINGS IN CIVIL CASES.

TITLE I.

OF COURTS AND JUDICIAL OFFICERS.

CHAPTER CIV. *Of the Supreme Court.*
CV. *Of the Circuit Courts.*
CVI. *Of the City Court of Charleston,*
CVII. *Of Attorneys, Solicitors and Counselors.*
CVIII. *Special Provisions Respecting Courts and the Administration of Justice.*

CHAPTER CIV.

OF THE SUPREME COURT.

SEC.
1. Justices; quorum.
2. Salaries.
3. Adjournments.
4. Justices to qualify, when; oath of office.
5. Records.
6. Power to issue writs, administer oaths, &c.
7. Duties of Sheriff of Richland County.
8. Order of causes on docket.
9. Causes not reached.

Reporter.

10. Appointment; oath.
11. Justices to furnish notes of decisions.
12. To publish statement of case.
13. Reports to be printed; proviso
14. To be delivered to Secretary of State; exchanges.
15. Copyright.
16. Salary.

Clerk.

17. Appointment; term of office.
18. Custody of records; copies.
19. To be Librarian of Supreme Court Library.
20. Salary.

SECTION 1. That the Supreme Court shall consist of a Chief Justice and two Associate Justices, who shall be chosen as provided by Article IV, Section 2, of the Constitution, two of whom shall constitute a quorum. It shall be the duty of all the Justices to be present, and the Chief Justice shall preside. In the absence of the Chief Justice, the Justice oldest in commission shall preside.

Justices; quorum.
Con. Art 4, § 2.
1868, XIV, 73, § 1.

SEC. 2. The Chief Justice of the Supreme Court shall receive an annual salary of four thousand dollars; and the Associate Justices of the Supreme Court shall receive, each, an annual salary of three thousand five hundred dollars.

Salaries.
Ib., 136, § 1

Adjournments.
Ib., 73, § 2.

SEC. 3. If at any stated term of the Supreme Court two Justices thereof shall not attend on the first day of the term, the Justice that may attend shall have authority to adjourn said Court, from day to day, for ten days after the time appointed for the commencement of said term, unless two Justices shall sooner attend; and the business of said Court shall not, in such case, be continued over to the next stated term thereof until the expiration of said ten days.

Justices to qualify, when.
Oath of office.
Ib., § 3.

SEC. 4. The Justices of the Supreme Court shall qualify within five months after the date of their election, by taking the oath prescribed by the thirtieth Section of Article II of the Constitution, or the office be declared vacant by the Governor, and shall enter forthwith upon the duties of their offices; such oath of office shall be administered to the Justices chosen at the first election, if qualified under the Constitution, by the Governor of the State; and when such Justices shall be chosen at any subsequent election, such oath shall be administered in like manner, and under like conditions and limitations, by a Justice of said Court.

Records.
Ib., § 4.

SEC. 5. The Supreme Court shall be a Court of Record, and the books of record thereof shall, at all times, be subject to the inspection of the citizens of this State, or other persons interested. Said records shall be kept in the manner prescribed, from time to time, by the Justices of the Court.

Power to issue writs, administer oaths, &c.
Ib., § 6.
Con., Art. 4, § 4.
1 S. C. R., 56.
Amended by Com'rs.

SEC. 6. Each of the Justices of the Supreme Court shall have power to administer oaths, issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and other remedial writs, according to the principles and course of the common law, not inconsistent with the Constitution, subject, on motion of either party, to re-examination, affirmance or reversal, and final adjudication by the proper jurisdiction.

Duties of Sheriff of Richland County.
Ib., § 7.

SEC. 7. The Sheriff of Richland County shall attend every session of the Supreme Court, to perform such official service as by the said Court shall be required, and he shall be allowed and paid therefor at the rate of five dollars per day. Said Sheriff shall, under the direction of the Chief Justice, secure a suitable room in which to hold said Court, and offices for use of the same, and provide necessary furniture, printing, blank books, stationery, fuel and lights; and the accounts and vouchers for all of said expenditure and service shall be certified to, under oath, by said Sheriff, approved by the Chief Justice, audited by the Comptroller General, and paid by the Treasurer of the State out of any funds not otherwise appropriated.

Order of causes on docket.
1871, XIV, 604, § 1.

SEC. 8. The Supreme Court shall, on the last day of each stated term, make and publish an order designating the order in which the causes from the several Circuits shall be called at the stated term of the Court next ensuing, which order shall also specify the time to be allotted to the hearing of causes from each Circuit. This order shall be irrevocable.

SEC. 9. If the causes from the several Circuits cannot be heard within the period allotted, as provided in the preceding Section, the Court shall continue the same to be heard after the regular call of the Circuits, or, in its discretion, till the next stated term.

Causes not reached.
Ib., § 2.

Reporter.

SEC. 10. The Reporter of the Supreme Court shall be appointed by the Judges of the Supreme Court for the term of two years, and shall, before entering upon the duties of his office, take and subscribe the oath of office before the Clerk of the Supreme Court.

Appointment; oath.
Con., Art. 4, § 7. 1869, XIV, 245, § 1.

SEC. 11. It shall be the duty of the Justices of the Supreme Court to prepare and deliver to the Reporter full notes of all decisions made by them, which they shall deem of sufficient importance to publish.

Justices to furnish notes of decisions.
Ib., § 2.

SEC. 12. The Reporter shall faithfully and truly prepare all such decisions for publication; and when, in the opinion of the Court, it shall be necessary for a proper understanding of the decision, he shall report therewith a brief statement of the case and argument.

To publish; statement of case.
Ib., 245, § 3.

SEC. 13. As often as the decisions of said Court shall be sufficient to constitute a volume of not less than five hundred pages, it shall be the duty of the Reporter to procure to be printed and published, in a neat and substantial manner, of ordinary law size, an edition of five hundred (500) copies of such report: *Provided*, That they shall be printed by the State Printer at prices paid as per the contract made for printing for the General Assembly. Upon the completion of such publication the Comptroller General shall draw his warrant upon the Treasury of the State for the cost of publication.

Reports to be printed.

Proviso.
Ib., § 4.

SEC. 14. The whole edition, when published, shall be delivered to the Secretary of State, who shall retain one hundred (100) copies of the same, to be distributed as hereinafter required. He shall exchange copies of each volume, if practicable, for such Reports, or other works on Law and Equity, as the Justices of the Supreme Court shall designate, which works shall be placed in the Library of the Supreme Court. He shall offer the remainder of such editions for sale, at a price not to exceed three and one-half dollars per volume, the proceeds of which sale shall be placed in the Treasury.

To be delivered to Secretary of State. Exchanges.
Ib., § 5.

SEC. 15. The copyright of all volumes of Reports published in accordance with this Chapter shall be vested in, and remain the property of, the State.

Copyright.
Ib., § 6.

SEC. 16. The annual salary of the Reporter of the decisions of the Supreme Court shall be fifteen hundred (1500) dollars, to be paid quarterly, as the salaries of other public officers are.

Salary.
Ib., § 7.

Clerk.

Appointment; term of office.
New. Con., Art. 4, § 7.

SEC. 17. The Clerk of the Supreme Court shall be appointed by the Judges thereof, and shall hold his office for two years.

Custody of records; copies.
1868, XIV, 73, § 4.

SEC. 18. He shall have the custody and keeping of its records, and shall furnish certified copies thereof to persons desiring the same, upon the payment of the fee prescribed by law.

Librarian.
1870, XIV, 3-3, § 1.

SEC. 19. He shall perform the duties of Librarian of the Supreme Court.

Salary.
Ib., Amended by Com'rs.

SEC. 20. His salary shall be fifteen hundred dollars per annum, to be paid out of the State Treasury.

CHAPTER CV.

OF THE CIRCUIT COURTS.

SEC.
1. To be always open for certain purposes.
2. Erroneous judgments may be vacated on motion; proviso.
3. Stay of proceedings pending motion.
4. May grant new trials; rules.
5. May change venue in civil and criminal cases; proviso.
6. Judges may hold Court in other Circuits.
7. Salaries of Judges.

To be always open for certain purposes.
1868, XIV, 136, § 2.

SECTION 1. That the Circuit Courts shall be deemed always open for the purpose of issuing and returning mesne and final process and commissions, and for making and directing all interlocutory motions, orders, rules and other proceedings whatever, preparatory to the hearing of all causes pending therein upon their merits, and it shall be competent for any Judge of the said Courts, upon reasonable notice to the parties, in the Clerk's office or at Chambers, and in vacation as well as in term, to make, direct and award all such process, commissions and interlocutory orders, rules and other proceedings, whenever the same are not grantable of course according to the rules and practice of the Court.

Erroneous judgments may be vacated on motion.

SEC. 2. In case a judgment or decree has been, or hereafter shall be, rendered by a Court of Common Pleas, it shall be lawful for either party, plaintiff or defendant, to move, before the presiding Judge of the Circuit in which said judgment was obtained, to vacate or set aside said judgment, upon satisfactory proof being made to said Judge that said judgment is erroneous and ought to be set aside; and, upon such proof being made, the presiding Judge is hereby authorized to vacate and set

aside said judgment, and to order a trial *de novo*: *Provided*, That, except as to causes arising under the Provisional Government of South Carolina, no motion shall be entertained for a new trial in any cause, unless the motion be made within two years after the judgment rendered.

Proviso. 1869, XIV, 214, § 1. 1 S. C. R., 139.

SEC. 3. Upon service of notice of motion for the purpose hereinbefore stated, and satisfactory security given for the payment of said judgment in the event a new trial shall not be granted, the said security to be approved by the Clerk of the Court for the County in which such judgment was obtained, the presiding Judge is hereby empowered to order a stay of all proceedings until the hearing and decision of said motion.

Stay of proceedings pending motion. Ib., § 2.

SEC. 4. Circuit Courts shall have power to grant new trials in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the Courts of law of the United States; and they shall have power to administer all necessary oaths or affirmations, and punish by fine or imprisonment, at the discretion of said Courts, all contempts of authority in any cause or hearing before the same, and to make and establish all necessary rules for the orderly conducting of business in said Courts: *Provided*, Such rules are not repugnant to the laws of the State or the rules prescribed by the Justices of the Supreme Court and Circuit Judges.

May grant new trials; rules. 1868, XIV, 136, § 1.

SEC. 5. The Circuit Judges shall have power to change the venue in all cases, civil and criminal, pending in the Circuit Courts, and over which such Courts have original and appellate jurisdiction, by ordering the record to be removed for trial to any County adjoining the County in which such action or prosecution was commenced, or to any County, in the discretion of the presiding Judge: *Provided*, That the application for removal shall be made to the Judge sitting in regular term by some party interested, supported by affidavits which shall satisfy the Judge before whom the application is made, that a fair and impartial trial cannot be had in the County where such action or prosecution was commenced: *Provided, further*, That twenty days' notice of such application shall be given to the adverse party.

May change venue in civil and criminal cases.

Proviso. Ib., 84, § 1; 1870, XIV, 339, § 1. Code of Procedure, § 149.

SEC. 6. A Circuit Judge of any Circuit shall have power to hold any stated or special term of the Circuit Court in any other Circuit upon the written request of the Circuit Judge of that Circuit.

Judges may hold Courts in other Circuits 1871, XIV, 558, § 1.

SEC. 7. The Circuit Judges shall receive an annual salary of three thousand five hundred dollars.

Salaries of Judges. 1868, XIV, 135, § 1.

CHAPTER CVI.

Of the City Court of Charleston.

Sec.

Jurisdiction and Practice.

1. To be holden by Recorder of Charleston. Salary of Recorder, and how paid.
2. Recorder's term of office Sessions of Court.
3. Jurisdiction limited to cases under City Ordinances.
4. Trials to be by jury in certain cases.
5. Formation of juries.
6. Qualifications of jurors.
7. Practice to conform to that of Circuit Court.
8. Writs and processes.
9. Power of the Court; of the Recorder; extent of authority; return of writs.
10. Right of appeal to Supreme Court.
11. Transfer of judgments, &c., from City Court to Circuit Court of Charleston County.
12. City Court may sentence to imprisonment in certain cases.
13. Prisoners may be confined in Charleston jail.
14. May be ordered there by Judges, &c.

Of Clerk and Sheriff.

15. Powers of Clerk and Sheriff.
16. To draw jurors in the absence of the Recorder.

Fees.

17. Fees to be same as in like cases in Circuit Court.

Miscellaneous Provisions.

18. Recorder not to plead in certain cases.
19. To have supervising powers over prosecutions, &c., commenced before Trial Justices in Charleston County. Jurisdiction and practice.

To be holden by the Recorder, &c. Salary, &c.

1801, VII, 300; 1820, VII, 322, § 1. 1 Mill., 45.

SECTION 1. That the Court heretofore established and called the City Court of Charleston shall be held by the Recorder of the city of Charleston; and the City Council shall fix and provide such compensation for the Recorder as may be fit and proper, and proportioned to the importance of his station, which compensation shall not be increased or diminished during his continuance in office, to be paid by the city.

Recorder's term of office. Sessions.

1783, VII, 99, § 4; 1856, XII, 18, § 6.

SEC. 2. The said Recorder shall be appointed by the City Council of Charleston, and hold his commission during good behavior; and he shall sit, at such times as may be fixed by the Ordinances of the City Council of Charleston, from time to time.

Jurisdiction of Court.

Ib. 1 N.& McC., 227; 2 N.& McC., 233; 4 McC., 487; 1 Rich., 366; 2 Bail., 164.

SEC. 3. The jurisdiction of the City Court of Charleston shall be limited to the trial of causes arising under the Ordinances of the City Council of Charleston.

Trials to be by jury in certain cases.

1801, VII, 301, § 3. 10 Rich., 138. Amended by Com'rs.

SEC. 4. All issues, controversies and litigations in the said Court, of which the value shall exceed the sum of twenty-one dollars and forty-three and one-third cents, if demanded by either party, shall be tried by a jury, according to the regulations and forms prescribed by law in cases of trial by jury.

Formation of juries, &c.

1818, VII, 320, § 8; 1854, XII, 340. 7 Rich., 123.

SEC. 5. To that end, the City Council of Charleston shall cause a jury box for the said city to be made, and a jury list to be provided for the same by the City Sheriff; from which box jurors, to serve for any one week of any term of the said Court, shall be drawn, summoned and empannelled for the trial of causes, in like manner, and under the same penalties, as are established by law and usage in the Circuit Court: *Provided*, That no *venire facias* shall, at any time, issue for more than thirty-six jurors, to serve at one Court, from whom a jury (or two juries, if the Recorder shall regard more than one jury necessary for the proper

dispatch of the business before the Court,) shall be empanelled; and, in case of non-attendance of the jurors so drawn and summoned, their places may be supplied by talesmen, drawn in the usual mode; but no person shall be liable to serve twice, until all the names in the said jury box shall be drawn out.

Qualifications of jurors.
1820, VII, 302, § 5.

SEC. 6. All persons possessing the qualifications prescribed for jurors by the laws of the State, and usually residing in the city, or who have resided therein for four months before their being drawn, and there being at the time of being drawn and summoned, shall be liable to serve as jurors in the said Court; saving and reserving to all persons, all lawful excuses and exemptions, as in other Courts.

Practice to conform to that of Circuit Court.
818, VII, 309 § 3.

SEC. 7. It shall be lawful for the City Council, and the said Recorder, to prescribe, and from time to time to regulate, the practice of the said Court, and of the attorneys therein, conformably to this Chapter, and as nearly as may be to the forms and rules used in the Circuit Courts of this State, and the proceedings shall be the same substantially as in like cases.

Writs and processes.
1801, VII, 302, § 6.
4 Rich., 338.

SEC. 8. All writs and processes shall be issued by the Clerk of the said Court, and shall be made returnable to the first day of the term next succeeding the issuing of the same.

Power of the court; of the Recorder; extent of authority; return of writs.
Ib., § 7; 1818, VII, 319, § 3; 1836, VII, 338, § 1.

SEC. 9. The said Court is invested with power and authority to grant rules; to hear and determine motions for new trial, in arrest of judgment; and all questions of law arising out of causes within its jurisdiction; to issue subpœnas for the attendance of witnesses; to grant commissions for the examination of witnesses; to issue executions of *fieri facias*, against the real and personal property of defendants; to issue writs of *capias ad respondendum*; to punish for contempts; and also all other the usual process, according to the known and approved rules of the common law, and of the Acts of the Assembly in such cases provided; the Recorder shall have the same powers in the discharge of his duties as the Judges of the Court of Sessions and Common Pleas in like cases; but it is hereby declared and provided, that no process or writ issuing out of the said Court shall extend or be of force for service or execution out of the limits of the said city, except commissions to examine witnesses; and that all writs shall be served and returned ten days before the sitting of the Court aforesaid.

Right of appeal to Supreme Court.
Ib., § 9; 1818, VII, 320, § 6.
(See Code of Procedure, 349.)

SEC. 10. All parties shall have the same right of appeal to the Supreme Court from the decisions of the said City Court, in the same form which is now or may be lawful for parties in the Circuit Courts, in like cases; and the Supreme Court shall hear and determine such appeals in the same manner as appeals from the Circuit Court of Charleston County.

Transfer of judgments, &c., to Circuit Court of Charleston County. 1868, XII, 488, § 7.

SEC. 11. All judgments in the office of the Clerk of the said City Court, and all executions, writs and processes in the office of the Sheriff of the city of Charleston, other than judgments, executions, and processes arising under the ordinances of the City Council of Charleston, shall be transferred respectively to the offices of the Clerk of the Circuit Court and of the Sheriff of the County of Charleston, which causes, judgments, executions, writs and processes shall be of like validity and force as if the same had originated or been sued out of the Circuit Court for the said County.

City Court may sentence to imprisonment. 1870, XIV, 382, §§ 1 & 2. (Am'd by Com'rs).

SEC. 12. The City Court of Charleston is vested with power to impose, for the violation of the city ordinances, imprisonment in the Work House or Jail, not exceeding thirty days, in the alternative, to penalties authorized to be imposed by ordinances of said city.

Prisoners may be confined in Charleston jail. 1801, VII, 303, § 4; 1808, VII, 349, § 4.

SEC. 13. All prisoners who shall be arrested and ordered to be committed by the Recorder of the said city, as Judge of the City Court, upon any complaint, to take trial at the said Court, shall and may be committed to the common jail of Charleston County, and there held until discharged by due course of law; and the keeper of the said jail is hereby directed and required to take custody of said prisoners, and them safely keep accordingly.

May be ordered there by Judges &c. Ib.

SEC. 14. The Judges and Trial Justices in the State may order prisoners to said jail to take trial in said City Court, in cases within its jurisdiction.

Of Clerk and Sheriff.

Powers of Clerk and Sheriff. 1810, VII, 322, § 2.

SEC. 15. The Clerk and Sheriff of the said City Court of Charleston shall have the same powers and authority, in all cases, within the jurisdiction of the said Court, as the Clerks and Sheriffs of the Circuit Courts.

In absence of Recorder to draw juries. Ib., § 8.

SEC. 16. In case of the sickness or absence from the State of the Recorder they shall have power, and are hereby authorized and required, to draw juries for the succeeding term.

Fees.

To be same as in Circuit Court, &c. 1818, VII, 349, § 5. 1 Rich., 69.

SEC. 17. The charges and fees of the several offices of the City Court shall be the same as in the Circuit Court in like cases.

Miscellaneous Provisions.

Recorder not to plead in certain cases. 1801, VII, 303, § 12.

SEC. 18. The said Recorder shall not be permitted to plead in a superior Court in any cause which has been argued before or adjudged by him.

SEC. 19. He shall be invested with power to examine and supervise all prosecutions, commitments and warrants of arrest commenced before or issued by any Trial Justice in the County of Charleston, for all larcenies and misdemeanors; and it shall be his duty from time to time, at short intervals, and also when any application shall be made to him, to examine into the character and circumstances and merits of the same at any time before bill found, and to direct the discontinuance of the same, either unconditionally or on such terms and conditions as may seem to him most conducive to the ends of justice; and, for this purpose, the said Recorder is hereby authorized to summon before him the parties and such witnesses as he may deem necessary.

To have supervising power in certain cases.
1856, XII, 189, § 9.

CHAPTER CVII.

OF ATTORNEYS, SOLICITORS AND COUNSELLORS.

SEC.
1. Penalty for practicing unless admitted and sworn.
2. Qualifications required; proviso
3. Admission of foreign attorneys, &c.
4. Admission to Supreme Court.
5. Oath; roll.
6. Removal or suspension.
7. Cause for removal—entitled to be heard.
8. Penalty for speculating.
9. Not to argue longer than two hours.
10. Citizens may appear in person; for others, without reward.

SECTION 1. That no person whatsoever shall practice or solicit the cause of any other person, in any Court in this State, unless he has been admitted and sworn as an attorney, under the penalty of five hundred dollars for every cause he shall so solicit, one half to the State, and the other half to him or them that will sue for the same.

Penalty for practicing unless admitted and sworn.
1721, VII, 373, § 19.

SEC. 2. Any male citizen, of the age of twenty-one years, having read law in the office of any practicing attorney of good standing in this State for the period of two years, or graduated at any recognized law school in the United States, shall, on the examination of three members of the bar, appointed by the Circuit Court for that purpose, who shall certify that he is a person of good moral character, and possesses the requisite learning and ability, be admitted to practice in the Circuit and Probate Courts as an attorney, solicitor and counsellor, upon taking the oath prescribed in the Constitution: *Provided*, That, in extraordinary cases, the Judge presiding may, in his discretion, dispense with any portion of the two years' study herein required. The Judges of the Supreme Court may, in like manner, and under like regulations, admit persons to practice as attorneys, solicitors and counsellors in the Supreme Court, and admittance to the Supreme Court shall entitle them to practice in all the Courts of this State.

Qualifications required.
1868, XIV, 96, § 1.

Proviso.

Admission of foreign Attorneys, &c.
Ib., § 2.

SEC. 3. Any person of good moral character, who has been admitted to practice as an attorney, solicitor or counsellor in any Court of record in any of the United States, or in any Court of the United States, shall, on producing the proper evidence thereof, on motion, be admitted to practice as such in the Courts of similar grade in this State, on taking the prescribed oath.

Admission to Supreme Court.
Ib., § 3.

SEC. 4. Any attorney, solicitor or counsellor, having been admitted to practice in the Circuit and Probate Courts, and practiced acceptably therein two years, shall, on motion and recommendation of any attorney of record in the Supreme Court, be admitted to practice in said Court.

Oath; roll.
Ib., § 4.

SEC. 5. The oath required to be taken by this Chapter shall be administered in open Court, and the name of the person taking the same entered in a roll or book kept for that purpose, and a certificate of said oath shall be filed in Court.

Removal or suspension.
Ib., 97, § 5.

SEC. 6. Attorneys, solicitors and counsellors may be removed or suspended, and, also, in aggravated cases, imprisoned, not exceeding twenty-four hours, by the several Courts in which they have been admitted to practice, if, in the presence of such Court, they are guilty of any disorderly conduct causing an interruption of business or amounting to an open and direct contempt of the Court, his authority or person; but, subject to such removal, they shall hold their office for life.

Cause for removal; entitled to be heard.
Ib., § 6

SEC. 7. Any attorney, solicitor or counsellor may be removed or suspended who shall be guilty of any deceit, malpractice or misdemeanor; but not until a copy of the charges against him shall have been delivered to him by the Clerk of the Court in which the proceedings shall be had and an opportunity shall have been given him of being heard in his defence.

Penalty for speculation.
Ib., § 7.

SEC. 8. If any attorney, solicitor or counsellor shall enter into any speculating practices by purchasing, or procuring to be purchased, any note or other demand for the purpose of putting the same in suit, when otherwise the owner or holder thereof would not sue the same, such attorney, solicitor or counsellor shall pay a fine of one hundred dollars, and shall thereafter be incapable of practicing as such in any Court until restored by the Supreme Court.

Not to argue longer than two hours.
Ib., § 8.

SEC. 9. No attorney, solicitor or counsellor shall be allowed to occupy more than two hours of the time of the Court in the argument of any cause, unless he shall first obtain the special permission of the Court to do so.

SEC. 10. This Chapter shall not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires, or the cause of another, with leave of the Court first had and obtained, provided that he declare on oath, if required, that he neither has, or will accept or take any fee, gratuity or reward, on account of such prosecution or defence, or for any other matter relating to the said cause.

Citizens may appear in person; for others without reward.

Ib., § 9; 1721, VII, 173, § 29.

CHAPTER CVIII.

SPECIAL PROVISIONS RESPECTING COURTS AND THE ADMINISTRATION OF JUSTICE.

SEC.
1. Rights in Courts not affected by race or color.
2. Persons appointed by U. S. may prosecute in behalf of U. S.; proviso.
3. Seals of Courts of Common Pleas.
4. Writs of prohibition, &c., may be granted by Judges at Chambers.
5. Attendants at Courts exempt from arrest.
6. Penalty for contempt of Court; offender to be heard.
7. Violation of the peace within the hearing of the Court.
8. Affirmations valid as oaths.
9. Moneys paid into Court to be deposited.
10. How to be drawn: proviso.
11. Clerk to obey order of Court to deposit; penalty.
12. Effect on writs, &c., of failure of Court to sit as required by law.
13. Confirmation of judgments, &c., by military courts, and rights under military orders.

SECTION 1. That wherever authority has heretofore been conferred by law upon any free white person or persons to institute any suit or proceedings, or to prefer any information or complaint in any matter, civil, penal or criminal, the same rights shall be enjoyed by, and the same remedies applicable to, all persons whatsoever, regardless of race or color, subject to the same conditions, and none others.

Rights in Courts not affected by race or color.

1870, XIV, 338, § 1.

SEC. 2. It shall and may be lawful for all and every person or persons authorized and appointed by the United States for that purpose, in their name, and in their behalf, to commence and to prosecute to final decree, judgment, and execution, any action or actions, for the recovery, from individuals, of debts due, and effects belonging to, the United States: *Provided*, That all and every such action shall be conducted in the same manner, and subject to the same rules and regulations, as when commenced by one citizen of this State against another citizen thereof, and that the defendant or defendants be allowed the same privileges and advantages as he, she or they would be entitled to if sued by a citizen of this State.

Persons appointed may prosecute in behalf of U. S.

1785, IV, 667, § 1.

Proviso.

SEC. 3. The Courts of Common Pleas shall, at the expense of the State, have a seal for each County of an impression similar to that of the Court of Common Pleas in Charleston County, and uniform with that seal; except that each seal shall in the legend have the name of the Court in which it is used. The said seals shall always be affixed to such proceedings of the said respective Courts as may require the same.

Seals of Courts of Common Pleas.

1792, V, 211, § 2.

Writs of Prohibition, &c., may be granted at Chambers.

1865, VII, 321, § 1.
1 McC., 474. 2 S. C. R., 25.

SEC. 4. The Judges of the Courts of Common Pleas shall have power, at their Chambers, to grant writs of prohibition and *mandamus*, and to hear and determine motions to set aside or stay executions, in the same manner, in every respect, as if the Court was actually sitting; and the parties, respectively, shall have the same right of appeal as if the decision were made in open Court.

Attendants of Courts exempt from arrest.

1785, VII, 219, § 10; 1798, VII, 286, § 5; 1818, XI, 41, § 1.
Harp., 452; 1 Rich., 198; 5 Rich., 5 4.

SEC. 5. All persons necessarily going to, and attending on, or returning from, the Courts of Record of this State, (allowing thirty miles per day for the traveling of such persons,) shall be free from arrest, except on criminal process for treason, felony or breach of the peace.

Penalty for contempt of Court.

1794, III, 283, § 4
4 Strob., 338, 339.

SEC. 6. In case any person shall commit any misbehavior or contempt in any Court of judicature in this State, by word or gesture, it shall and may be lawful for the Judges of every such Court to set a fine on such offender, in any sum not exceeding fifty dollars, for the use of this State, and may commit the offender till payment; but, if any person shall, in the presence, and during the sitting of the Court, strike, or use any violence therein, such person shall be fined at the discretion of the said Court, and shall be committed till payment: *Provided*, That no citizen of this State shall be sent to jail for any contempt of Court, or supposed contempt of Court, committed during the sitting of the Court, and in disturbance of the Court, until he be brought before the Court, and there be heard by himself or counsel, or shall stand mute.

Offender to be heard.

1811, V, 642, § 1.

Violations of the peace within hearing of the Court.

Ib., § 2.

SEC. 7. When any affray shall happen during the sitting of any Court within this State, and within the hearing, or to the disturbance of the Court, the Court shall order the Sheriff, or other lawful officer, to take the affrayers, or other disturbers of the peace, or those guilty of contempt, and bring the offender or offenders before the Court, and the Court shall make such order or orders thereon as is or may be consistent with law, justice and good order.

Affirmations valid as oaths.

1794, III, 281, § 28
Miller's Compilation, 159, note *a*.

SEC. 8. Any person who shall appear in any of the Courts of justice, or before any Judge, or Trial Justice in this State, either as juror, witness, party or otherwise, in any cause, civil or criminal, and shall make a solemn and conscientious declaration and affirmation, according to the form of his profession, in any matter, cause or thing wherein an oath is required by law, such solemn and conscientious declaration and affirmation shall be deemed, held and judged and taken as valid and effectual, to all intents, constructions and purposes whatsoever, as if such person had taken an oath on the Holy Evangelists of Almighty God.

Moneys paid into Court to be deposited.

1868, XIV, 16, § 10.

SEC. 9. All moneys which shall be paid into the Circuit or Probate Courts of the State, or received by the officers thereof in causes pending therein, shall be immediately deposited in some incorporated State bank or National bank within the Circuit, of good credit and standing; or, if there be no such bank within the Circuit, then in such bank nearest to the place of holding the Court, in the name, and to the credit of the Court.

How to be drawn.
Ib., § 11.

SEC. 10. No money deposited as aforesaid shall be drawn from said banks, except by order of the Judge of said Courts, respectively, in term or in vacation, to be signed by such Judge, and to be entered and certified of record by the Clerk; and every such order shall state the cause in or on account of which it is drawn: *Provided*, That money paid into Court to be immediately paid out need not be so deposited, but shall be paid upon order of the Court.

Proviso.

Clerk to obey order of Court to deposit; penalty.
Ib., § 12.

SEC. 11. If any Clerk of such Courts, or other officers thereof, having received such moneys, as aforesaid, shall refuse or neglect to obey the order of such Court for depositing the same, as aforesaid, such Clerk or other officer shall be forthwith proceeded against by attachment for contempt.

Effect on writs, &c., of failure of Court to sit as required by law.
1785, VII, 18, § 15.

SEC. 12. No process depending in any Court shall be discontinued for or by reason of the failure to hold the Court upon the day appointed by law, but in such case, all suits, process, matters and things depending, shall be made to the next succeeding Court in course, in the same manner as if such succeeding Court had been the same Court to which such process stood continued, or such returns or appearances should have been made; and all recognizances, bonds and obligations for appearances, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, and all summonses for witnesses, as effectual, as if the succeeding Court had been expressly mentioned therein; and all causes depending on the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order, to such Court, as fully as if such causes were called over and continued by order of Court.

Confirmation of judgments, &c., by military courts, and rights under military orders.
1868, XIV, 87, § 1.

SEC. 13. All rights of property vested, acquired, or in action, by virtue of the judgments, orders or decrees of military tribunals, or by virtue of general or special orders issued by the military commanders on duty in the State, since the first day of March, 1865, and up to the time of the expiration of the late Provisional Government of South Carolina, are affirmed and declared valid, and the same shall be unquestioned in the Courts of the State.

TITLE II.

OF ACTIONS AND PROCEEDINGS THEREIN

CHAPTER CIX. *Of Actions by and Against Executors and Administrators.*
CX. *Of Witnesses and Evidence.*
CXI. *Of Juries.*

CHAPTER CIX.

OF ACTIONS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

SEC.

Proof of Appointment.

1. Papers to be furnished executors, &c; to be evidence.

To Sue in Certain Cases.

2. Civil actions for wrongful acts causing death.
3. For whose benefit; to be brought by executor, &c.; damages.
4. Limitation; costs.
5. When action is barred.

SEC.

6. Actions against trespassers.
7. Actions for debts.
8. Executions on judgments obtained by deceased executors, &c.

Actions Against.

9. Actions against executors when one or more are out of the State.
10. When actions may be commenced.
11. Actions upon promises and agreements by parol.

Proof of Appointment.

Papers to be furnished to Executors, &c; to be evidence.

1789, V, 109, § 18; 1849, XI, 62, § 17.

SECTION 1. That it shall be the duty of the Judge of Probate, on application by the executor or administrator of any deceased person, to whom letters testamentary or of administration have been respectively granted, to furnish a true copy of such order as he may make, concerning the probate of the will, or granting of administration, certified under his hand, which shall be sufficient evidence of the appointment of such executor or administrator in any Court in this State

To Sue in Certain Cases.

Civil action for wrongful acts causing death.

1859, XII, 825, § 1.

SEC. 2. Whenever the death of a person shall be caused by the wrongful act, neglect or default of another, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case, the person or corporation who would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, although the death shall have been caused under such circumstances as make the killing in law a felony.

SEC. 3. Every such action shall be for the benefit of the wife, husband, parent and children of the person whose death shall have been so caused, and shall be brought by, or in the name of, the executor or administrator of such person, and, in every such action, the jury may give such damages as they may think proportioned to the injury resulting from such death, to the parties respectively for whom and for whose benefit such action shall be brought, and the amount so recovered shall be divided among the before mentioned parties in such shares as they would have been entitled to if the deceased had died intestate, and the amount recovered had been personal assets of his or her estate.

For whose benefit; to be brought in name of Executor, &c.; damages.
Ib., 826, § 2.—15 Rich., 201.

SEC. 4. All such actions must be brought within two years from the death of such person, and the executor or administrator, plaintiffs in the action, shall be liable to costs, in case there be a verdict for the defendant, or non-suit, or discontinuance, out of the goods, chattels and lands of the testator or intestate, if any, and if none, then out of the proper goods and chattels of such executor or administrator.

Limitation; costs.
Ib.

SEC. 5. The provisions of Sections 2, 3 and 4 of this Chapter shall not apply to any case where the person injured has, for such injury, brought action, which has proceeded to trial and final judgment before his or her death.

When action barred.
Ib., § 3.

SEC. 6. Executors in cases of trespass done to their testators, as of the goods and chattels of the same testators carried away in their life, shall have an action against the trespassers, and recover their damages in like manner as they whose executors they are should have had if they were in life.

Actions against trespassers.
4 Ed. 3, c. 7; 1712, II, 425. 1 Bay, 562; 10 Rich., 922; 2 Bay, 166; 8 Rich., 463.

SEC. 7. Every creditor who may be appointed administrator shall be obliged to sue for such debts as he may reasonably expect to recover, or, at the request and proper charges of any of the creditors of the intestate, assign and impower them, or any of them, to sue for the debts outstanding to the estate of such intestate

Action for debts.
1745, III, 667, § 8.

SEC. 8. Where any judgment after a verdict shall be had, by or in the name of any executor or administrator, an administrator *de bonis non* may take out execution upon such judgment.

Executions on judgments obtained by deceased Executors, &c.
17 C. 2, c. 8; 1712, II, 521. 1 Bay, 444.

Actions Against.

SEC. 9. In cases where there are two or more executors or administrators to any estate, and any one or more of them has withdrawn, or shall withdraw, or reside out of the State, it shall and may be lawful for any creditor or person having right or cause of action against such estate, to commence his action against all the executors or administrators, naming and setting forth therein the executor or administrator, one or more, who is or are out of the State; and the summons being served in the usual form upon those who are within the State, the suit shall be deemed to be good and effectual in law, to all intents and purposes; sav-

Actions against Executors, when one or more are out of the State.
1793, VII, 282, § 4.

ing only, that the judgment in such cases shall not extend to work any *demandavit* upon the person or persons so absent, or to effect him, her or them in their private right.

When actions may be commenced. 78, V. 112, § 7.

SEC. 10. No action shall be commenced against any executor or administrator for the recovery of the debts due by the testator or intestate, until nine months after such testator or intestate's death.

2 Bay., 253; 2 N. & McC., 256; 2 McC., 1; 3 McC., 555; Harper, 335; 1 McM., 3; 3 Rich., 182; 2 Strob., 189.

Actions upon promises and agreements by parol. 7 C. 2, c. 3; 712, II, 528, 1 McC., 488; 5 Strob., 129; 7 Rich., 67; 10 Rich., 60.

SEC. 11. No action shall be brought whereby to charge any executor or administrator upon any special promise, to answer any damages out of his own estate, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

CHAPTER CX.

OF WITNESSES AND EVIDENCE.

SEC.

Attendance and Liability of Witnesses.

1. Allowance of charge for witnesses, &c.
2. Clerks of Courts to subpœna witnesses; what to be expressed in subpœna.
3. How subpœna served when witness is in another County.
4. Pay of witnesses in civil and state cases; to be paid by party summoning.
5. Person summoned, and failing to attend, to be fined for contempt, and liable for damages sustained for want of testimony.
6. Penalty for not answering.
7. Penalty for not obeying subpœna, or refusing to answer in criminal cases.
8. Prisoners—how to be brought into Court as witnesses.

Commissions to Take Testimony.

9. Judges and Clerks may grant commissions to examine witnesses in certain cases; ten days' notice of application to be served on opposite party; other provisions.
10. Testimony of officers of State Lunatic Asylum may be taken by commission in civil cases.
11. Where commission issues, subpœna for witnesses to be issued.
12. Such subpœna to be served two days before attendance of witnesses is required; fees of witnesses.
13. How witnesses to be punished for contempt in not attending before Commissioners.
14. Witnesses to attend and give evidence on commission from other States.
15. To have same fees and be liable to same penalties as witnesses in cases pending in this State.
16. Persons unable to leave home by reason of age, &c., to be attended by Commissioners; liable for damages for injury received for want of their testimony.

SEC.

Competency of Certain Testimony.

17. Plaintiffs, defendants and persons interested in suit empowered to give testimony; their testimony may be impeached.
18. In absence of witnesses to bond or note, signature may be proved by other testimony, unless defendant swears that signature is not his.
19. If defendant is executor, &c., cause not to be postponed unless he swears that he believes signature is not testator's.
20. Notary's protest sufficient evidence if Notary be dead, or lives in another County.
21. Affidavit may be filed as evidence in actions against common carriers.

Proof of Statutes and Public Records, Books of Accounts, &c.

22. Attested copies of Acts, records, &c., good evidence.
23. Transcripts from minute books of former county Courts.
24. Copies of certain instruments kept in a public office; thirty days' notice required, &c.
25. Certificates of State Superintendent of Education.
26. Certified copies of entries in Sheriff's books; ten days' notice required, &c.
27. No devise of real estate evidence until after probate.
28. Copies of grants and plats issued by this State and North Carolina.
29. Copies of deeds.
30. Foreign instruments.
31. Restriction upon use of copies of foreign instruments.
32. Farmers' and planters' books receivable in evidence.
33. Account books not admissible to prove debt for liquors sold in less quantity than a quart.

SEC.
Certain Testimony in Criminal Cases.
34. Defendants may testify in criminal cases if they desire.
35. No person required to criminate himself; rights of husband and wife.
36. Testimony given under Sections 17, 31 and 35, not to be used, &c.

Attendance and Liability of Witnesses.

SECTION 1. That in any bill of costs there shall not be allowed the charge of more than three witnesses to the proof of any one particular matter of fact.

Charge for witnesses.
1755, VII, 219, § 1.

SEC. 2. The Clerk of every Circuit Court shall, upon the request of either party, issue one or more subpœna or subpœnaes for any person or persons to attend as witnesses in any cause or matter depending in the same, expressing in every subpœna the time and place when the witnesses are to appear, the names of the parties to the suit, or cause wherein they are to give evidence, and at whose request they are summoned.

Clerk of Court to subpœna witnesses; what to be expressed in subpœna.
Ib.

SEC. 3. If any witness shall be an inhabitant of another County, the Clerk shall issue a subpœna directed to the Sheriff of such County where such witness usually resides, which shall be by such officer executed, and returned to the office whence the same issued.

How subpœnaed when living in another county.
Ib.

SEC. 4. Every person summoned to appear as a witness at any Court shall be paid, by the person or persons at whose suit the summons issued, one dollar for every day's attendance on such summons, and also the sum of five cents per mile for coming to Court, and the same for returning, besides ferriages, to be paid by the party summoning such witness, which said allowances shall be ordered by the Court, upon motion, and a copy thereof issued and tested by the Clerk at any time upon request.

Cheves, 26; 1 Hill, 394; 2 Spears, 74; 8 Rich., 154.

Pay of witnesses in civil cases; to be paid by party summoning.
Ib.; 721, VII, 179, § 18; 179, V, 155; 1870, XIV, 399, § 5
1 Bail., 187; 2 Bail., 272, 131; Harper, 454;

SEC. 5. If any person summoned as aforesaid, or summoned to attend before Commissioners appointed to take his or her examination and deposition, shall fail to attend accordingly, he or she so failing shall be fined by the Court for a contempt, and shall be liable to the action of such party at the common law, for all damages sustained for want of such witness' testimony; but if the person so failing to attend shall, at the Court to which the summons is returnable, or at the next succeeding Court, show cause, satisfactory to the Court, of his or her disability to attend at the time he or she ought to have appeared, then no fine or forfeiture shall be incurred by such failure.

Person summoned and failing to attend to be fined for contempt and liable for damages.
1755, VII, 219, § 16; 1794, V, 249, § 1.
Dudley, 70.

SEC. 6. If any person summoned as a witness, upon his or her appearance before the Court, or before Commissioners appointed to take his or her examination and deposition, or other officer authorized by law, shall refuse to give evidence, or answer to the interrogatories and cross-interrogatories, or any of them annexed to the commission, on oath, affirmation or otherwise, (as the case may be,) to the best of his or her knowledge, every person so refusing shall be committed to the common jail, there to remain until he or she shall give such evidence.

Penalty for not answering.
Ib.
(Am'd by Com'rs).

Penalty for not obeying subpœna or refusing to answer in criminal cases.
1721, VII, 370, § 18.

SEC. 7. If any witness in any criminal cause, (not being bound over by recognizance to appear,) shall refuse or neglect to appear on service of subpœna, he shall be fined by the Court any sum not exceeding one hundred dollars current money, and stand committed until he pays the same.

Prisoners, how to be brought into Court as witnesses.
1808, V, 571, § 2.

SEC. 8. Whenever it shall be necessary to bring any prisoner into Court, as a witness in any case, it shall be lawful for the presiding Judge to order such prisoner to be brought into Court, without the necessity of a writ of *habeas corpus;* and, when the said prisoner shall have given his evidence, to cause him to be remanded to the custody of the officer to whose keeping he shall have been originally committed.

Commissions to Take Testimony.

Judges and Clerks may grant commissions to examine witnesses in certain cases.
1787, V., 45, § 2; 1794, V, 249, § 2; 1816, VI, 44, § 1; 1839, XI, 107, § 16.
2 Bay, 5 2; 2 McC., 38; 1 Bail, 34; 2 Bail., 96; 1 Hill, 278; 4 Strob., 7; 4 Rich., 479.

SEC. 9. That any Judge of the Circuit Court, or the Clerk of said Court, shall have power and authority, on the application of any party to a suit pending in the Court of Common Pleas for his County, which application may be made to him by the party, either in person, or by agent or attorney, to grant commissions, under the seal of the Court, directed to three or more Commissioners, authorizing and empowering them, or any two of them, to take the depositions, in writing, of the witness or witnesses therein mentioned, resident without the limits of the State or County where the trial is to be had, or that reside at a greater distance than one hundred miles from the Court where said action is instituted, or may be about to remove without the limits of the State before the sitting of the next Court, or before the suit will stand ready for trial, or whose presence cannot be procured by reason of indispensable attendance on some public official duty, or professional duty as an attorney at such time, or of such sickness or infirmity as incapacitates such witness or witnesses from traveling, in order to appear and testify touching such matters as they may have in charge by such Commission: *Provided,* That ten days' notice of such application, with a copy of the interrogatories propounded, be served upon the opposite party or attorney, who shall have leave to resist such application, on cause shown: *Provided, also,* That such application be accompanied by an affidavit of the party applying, declaring his or her belief of the materiality of any witness proposed to be so examined, together with the fact which may entitle the party to such commission: *Provided, also,* That either party to a cause in which a commission has been issued may, in the discretion of the Court, on motion, and upon showing that two days' notice thereof has been given to the adverse party or attorney, be entitled to a rule to compel the personal attendance of any witness so examined, who may reside within the County, or not more than thirty miles from the court house where the trial is to be had.

Ten days' notice of application, &c., to be served on opposite party.

Other provisoes.

Testimony of officers of Lunatic Asylum may be taken by commission, &c.
1829, VI, 385, § 1.

SEC. 10. Whenever the testimony of any officer at the Lunatic Asylum shall be required in a Court of justice, in a civil cause, the same may be taken by commission; nor shall his or her personal appearance be required, unless it shall be made to appear to the Court, by affidavit, that justice cannot be done without such personal presence in Court.

Where commission issues, subpœna for witnesses to be issued.
1794, V, 249, § 2.

SEC. 11. Where a commission shall issue by consent of parties or otherwise, out of any Court of judicature in this State, to examine any witness or witnesses residing within this State, touching any matter or thing depending in such Court, the said Court shall have power, and is hereby required, to issue a subpœna, in due and legal form, commanding such witness or witnesses to attend before the Commissioners named in the commission, at a certain time, and at some place not more than fifteen miles from the residence of such witness or witnesses, respectively, and answer on oath, according to their knowledge, to the interrogatories and cross interrogatories annexed to the said commission.

Service of subpœna; fees of witnesses.
Ib., §§ 1 & 2; 1879, XIV, 399, § 5.

SEC. 12. Such subpœna shall be served on the witness or witnesses personally, at least two days before the time at which attendance is required by it; and such witness or witnesses, so attending and giving evidence, shall be entitled to the same fees as witnesses in civil cases summoned before a Circuit Court, for every day of necessary absence from home, and his or her necessary ferriages in going to and from and attending the said Commissioners, to be paid by the party obtaining the commission, or his or her agent, before it is delivered out of the hands of the Commissioners, who are hereby authorized and required to estimate the number of days for which payment is allowed as aforesaid, and to retain the commission till such payment be made.

How witness to be punished for contempt in not attending before Commissioners, &c.
1794, V, 249, § 1.

SEC. 13. Nothing contained in this Chapter shall authorize Commissioners to attach or commit persons summoned as witnesses, but any of the Circuit Courts of this State, on such subpœna as is herein mentioned being produced, and satisfactory information made on oath that it was personally and in due time served on any witness therein named, who refused or neglected to attend, according to the command of the said subpœna, or, attending, refused to answer as aforesaid, shall have power, and is hereby required, to order an attachment against such witness, to appear and answer for such neglect or refusal, as for a contempt of the Court; which attachment shall be served and executed by the Sheriff of that Court where it was awarded, or his Deputy, and shall run into any part of the State; and such other proceedings shall be had thereon as are usual and allowed in other cases of attachment for contempt.

Witnesses to attend and give evidence on commission from other States.
Ib.

SEC. 14. Where a commission shall issue out of any Court of judicature in another of the United States, to examine any witness or witnesses residing in this State, touching any cause, matter or thing depending in such Court, the person having obtained such commission, or his or her agent, shall produce it to a Judge of the Supreme or Circuit Courts of this State, who, on being satisfied of its authenticity and regularity, shall direct a subpœna to issue in due form from the Clerk's office of the nearest Circuit Court, in like manner as is provided by Section 11 of this Chapter in cases where commissions are issued out of the Courts of this State.

To have same fees and be liable to same penalties as witnesses in cases pending in this State.

Ib.

SEC. 15. Such subpœna shall be served within the same time, and such witness or witnesses, so attending and giving evidence, shall be entitled to the same compensation, to be assessed and secured in the same manner, and in case of neglect or refusal to attend, or refusal to give evidence, shall be liable to the same actions, pains and penalties, and to be proceeded against in the same manner, as is provided by Sections 5 and 6 of this Chapter for the case of witnesses to be examined in causes pending in this State.

Persons unable to leave home, &c., to be attended by Commissioners; liable to damages for want of their testimony.

Ib.

SEC. 16. Nothing contained in Sections 5, 6, 11, 13, 14 and 15 of this Chapter shall be held to extend to persons unable to leave home by reason of age, infirmity, sickness or bodily hurt, all of which persons, whenever it may be necessary to examine them by commission in causes depending either in this State or other States, shall be attended by the Commissioners; and in case of their refusal to give evidence, or to answer to the interrogatories and cross interrogatories under any such commission, shall be liable to the action of the party who may be injured by the want of their testimony, and shall make reparation in damages for such injury.

Competency of Certain Testimony.

Plaintiffs, defendants, and persons interested in suit, empowered to give testimony.

1866, XIII, 577, § 1.

SEC. 17. On the trial of any issue joined, or of any matter or question, or any inquiry arising, in any suit, action or proceeding in any Court of justice in the State, or before any person having, by law or by consent of parties, authority to receive, hear and examine evidence, the parties thereto, and the persons in whose behalf any such action or other proceeding may be brought or defended and any and all persons interested in the same, except as hereinafter excepted, shall be competent and compellable to give evidence, either *viva voce* or by deposition, according to the practice of the Court, on behalf of either or any of the parties to the said action or other proceeding: *Provided*, That nothing herein contained shall be understood to prevent either party from introducing evidence to contradict or impeach the testimony of parties having interest, and made competent by this Chapter to testify.

Testimony may be impeached.

In absence of witness to bond or note, signature may be proved by other testimony, unless, &c.

SEC. 18. The absence of a witness to any bond or note shall not be deemed a good cause, by any Court of justice, for postponing a trial respecting the same; but the signature to such bond or note may be proved by other testimony; unless the defendant, in his answer, shall swear, or affirm, according to the form of his religious profession, that the signature of the bond or note in suit is not his or hers.

1802, V, 435; Rice's Dig., 1, 136, No. 226; 2 Mill, 447; 1 McC., 391; 3 McC., 219; 4 McC., 91; Cheves Eq., 175; 11 Rich., 303; 12 Rich., 448.

If defendant is Executor, &c.

Ib.

SEC. 19. In case the defendant or defendants should be executors or administrators, the cause shall not be postponed for want of the subscribing witness to the bond or note in suit, but the signature may be proven by other testimony; unless one of the executors or administrators, who are defendants, shall swear, or affirm, as aforesaid, in his answer, that they have cause to believe the signature to such bond or note is not the testator's or intestate's, as the case may be.

Notary's protest sufficient evidence if Notary be dead or lives in another County

1842, VI, 182, § 2. 4 McC., 57; 2 Bail., 239; 2 Spears, 64.

SEC. 20. That whenever a Notary Public, who may have made protest for non-payment of any inland bill or promissory note, shall be dead, or shall reside out of the County in which said bill or note is sued, his protest of said bill or note shall be received as sufficient evidence of notice in any action by any person whatsoever, against any of the parties to such bill or note.

Affidavit may be filed as evidence in actions against common carriers.

1883, XIII, 235, § 3.

SEC. 21. In any action against any common carrier, by railroad or otherwise, whether the same be an incorporated railroad company, or an incorporated company, or an individual or unincorporated association of individuals, undertaking to carry, in whole or in part, by railroad or otherwise, if the plaintiff shall serve, with his complaint, a statement, on oath, of the facts, and of the amount of loss or damage sustained, the said affidavit shall be given to the jury as evidence in the case: *Provided*, That the defendant shall be at liberty, within thirty days thereafter, to serve, with his answer, an affidavit, denying the truth of the same, in which case both affidavits shall be submitted as evidence to the consideration of the jury: *And provided, also*, That, in addition to the evidence allowed above, all common law evidence shall be admitted in said case.

Proofs of Statutes and Public Records, Books of Accounts, &c.

Attested copies of Acts, records, &c., good evidence.

1721, VII, 176, § 39; 1801, V, 411, § 2; 1856, XII, 520, § 2; 1868, XIV, 76, § 3; 132, § 20.

SEC. 22. An attested copy of any Act or Ordinance of the General Assembly of this State, signed by the Secretary of State, and also attested copies of all records, signed by the keeper of such records respectively, shall be deemed and allowed as good evidence in any of the Courts of this State as the original could or might have been, if produced to the said Courts.

(See Code of Procedure, § 441). 2 N. & McC., 299; 1 McC., 109; 3 McC., 442, 518; 1 Hill, 76; Harper, 20; 1 Spears, 220; 3 Rich., 418.

Transcripts from minute books of County Courts.

1800, V, 381, § 4.

SEC. 23. A transcript from the minute books of the former County Courts shall be good and legal evidence in any trials in any of the Courts in this State, when it may be necessary to give such proceedings in evidence: *Provided*, That such transcript be regularly and duly certified under the hand of, and sworn to by, the Clerk or keeper of the said proceedings and records of the County Courts so abolished, who has, by law, the custody thereof; any law, usage or custom to the contrary notwithstanding.

Copies of certain instruments kept in a public office; 30 days' notice required, &c.

1839, VI, 3 4, § 5; 1843, VI, 269; 1842, XI, 233; 1866, XIII, 429. (See § 11, c. XXVIII).

1 Spears, 210; 13 Rich., 72; 9 Rich., 454; 12 Rich., 307.

SEC. 24. A copy of any administration bond, guardianship bond, Constable's bond, bond of a trustee, or bond of the committee of a lunatic, and all other instruments in writing, which by law are required or permitted to be in writing, and kept in a public office, certified by the officer having the custody of the same, shall be admitted in evidence in any of the Courts of this State, on thirty days' previous notice of the intention to offer such copy being given to the party against whom it is to be offered, or his or her attorney.

Certificates by Superintendent of Education.

1871, XIV, 576, § 13.

SEC. 25. Copies of all papers filed in the office of the State Superintendent of Education and his official acts may be certified by him, and when so certified, shall be evidence equally and in like manner as the original papers.

Copies of entries in Sheriff's books. Ten days' notice required, &c.

1856, XII, 550. 1 McM., 255.

SEC. 26. A copy of any entry in the official books of any Sheriff, certified to by the oath of such Sheriff, before the Clerk of the Court of Common Pleas and General Sessions, under the seal of said Court, shall be received as competent evidence by any of the Courts of this State, except in causes tried in the County where the said books are kept: *Provided,* That ten days' notice, in writing, of intention to offer such copy be first given to the opposite party, his attorney or solicitor.

Devise of real estate.

1856, XII, 701, § 5; 1855 XII, 512, § 3.

SEC. 27. No devise of real estate shall be admitted as evidence in any cause until after probate before the Judge of Probate, either in common form, or in due form of law.

Copies of grants and plats issued by this State or North Carolina.

1791, III, 303, § 30; 1803, V, 459. 2 McC., 270; 1 McC., 177, 273, 534; Harper, 221; 2 Bail., 296, 59; 2 Hill, 525; 2 McM., 68; 1 Spears, 18.

SEC. 28. It shall be lawful, in every Court of this State, for any party, plaintiff or defendant, to produce in evidence a copy, certified by the Secretary of State, of any grant and plat of land issued under the authority of this State, or certified copies of grants, under the authority of the State of North Carolina: *Provided,* That the person or persons so applying to produce an office copy of a grant in evidence swear that the original grant is lost, destroyed, or out of his, her or their power to produce, and that he, she or they have not destroyed, mislaid, or in any way willingly, previous to that time, put it out of his, her or their power to produce the same, with an intention to produce an office copy of the same in evidence: *And provided, also,* That nothing herein contained shall be construed to deprive any party in possession of the original grant of any advantage he would have had or derived from possessing the same, in case this Section had never been passed.

Copies of deeds.

1843, XI, 255 9 Rich., 467; 11 Rich., 182.

SEC 29. A copy of any deed of conveyance of real estate, certified by the Register of Mesne Conveyances of the County where the same may be recorded, may be produced in evidence in every Court of this State for any party, plaintiff or defendant, in like manner, and subject to the same rules, as are provided by the foregoing Section in relation to grants and plats: *Provided,* That the party intending to offer in evidence such office copy shall give at least thirty days' notice thereof to the opposite party or his attorney.

Attestations under seal of chief officer of corporate cities, &c., of foreign States &c.; foreign instruments, &c.

1791, III, 285, § 40; 1791, VII, 176, § 39. 2 Bay, 555. (Am'd by Com'rs).

SEC. 30. All exemplifications of records, and all deeds and bonds, or other specialties, all letters of attorney, procuration, or other powers in writing, and all testimonials, which shall at any time hereafter be produced in any of the Courts of this State, and shall be attested to have been proved, upon oath, under the corporation seal of any Mayor or chief officer of any city, borough or town corporate in any foreign State, or under the hand of the Governor, and public seal of any State in America, or under the notarial seal of any Notary Public, shall be deemed and adjudged good and sufficient in law, in any of the Courts of judicature in this State, as if the witnesses to such deeds were produced and proved the same *viva voce,* except as hereinafter provided.

SEC. 31. No testimonial, probate, certificate, or other instrument under the seal of any foreign Court of law, Notary Public, or other Magistrate or person qualified and empowered to give the same, shall be received in the Courts of this State as evidence of any debt due, or demand owing by any person or persons resident within the limits of this State: *Provided, nevertheless,* That if it shall appear to the Court that the testimonials, probates, certificates, or other instrument of writing for the purposes aforesaid, which have been or shall be hereafter issued from any of the Courts of this State, or by any of the officers thereof authorized and empowered to give the same, are received and allowed as evidence in the Courts of such foreign country.

Restriction upon use of copies of foreign instruments.
1787, V, 45, § 3. Code of Procedure, § 401.

SEC. 32. Books of original entry kept by farmers and planters relating to the transactions of their farms or plantations, shall be receivable in evidence in all trials in which the business or transactions of their farms or plantations shall be called in question, as between the farmer or planter and his employees, in the same manner as books of merchants and shop-keepers are.

2 Spears, 2 4; 10 Rich., 257; 3 Rich., 35 , 369; Bail. Eq., 226; 2 Hill Ch., 158.

Farmers' and Planters' books to be receivable in evidence.
1865, XIII, 30; 1721, VII, 168, § 10. 2 N.& McC., 471; 4 McC., 76; Cheves, 149; 2 McM, 134, 30 ;

SEC. 33. The books of accounts of tavern-keepers, shop-keepers or retailers of spirituous liquors, shall not be admitted, allowed or received as evidence in any Court having a right to try the same, of any debt contracted, or moneys due, for spirituous liquors sold in less quantity than a quart.

Account books not admissible to prove debts for liquors, &c
1827, VI, 318.

Certain Testimony in Criminal Cases.

SEC. 34. In the trial of all criminal cases the defendants shall be allowed to testify, (if he desires to do so, and not otherwise,) as to the facts and circumstances of the case.

Defendants may testify in criminal cases.
1866, XIII, 378, § 2.

SEC. 35. No person shall be required to answer any question tending to criminate himself; nor shall husband or wife be required to disclose any communication made to each other during their coverture.

Not required to criminate themselves, &c.; husband and wife.
Ib., § 3.

SEC. 36. Testimony given under the provisions of Sections 17, 34 and 35 of this Chapter, shall not be afterwards used against the person testifying in any other case, civil or criminal, except upon an indictment for perjury, founded on that testimony.

Testimony not to be used in other cases.
Ib.

CHAPTER CXI.

Of Juries.

SEC.

Jury Commissioners.

1. To be appointed by Governor; County Board, how constituted; Commissioners to hold office two years.
2. Pay of Jury Commissioners.
3. County Board to prepare, each year, lists of qualified jurors.
4. Names to be on separate ballots and placed in jury box
5. Jury Commissioners guilty of fraud punishable by fine or imprisonment.

Qualifications of Jurors.

6. Qualified voters liable.
7. Persons exempt from serving as Jurors
8. No person liable to be drawn more than once each year; proviso.
9. Persons guilty of crime not to be drawn.

Venires.

10. Clerk, when and how to summon jurors; jurors to serve for what time
11. Sheriff to serve *venires*.
12. Clerk may issue *venires* for additional jurors in term time if necessary.
13. Sheriff to summon jurors and return *venires* to Clerk.

Drawing and Empanneling of Jurors.

14. Jurors, how selected.
15. To be drawn by Board at office of Clerk of Court in presence of Clerk and Sheriff; if juror drawn is exempt; if Clerk and Sheriff fail to attend.
16. Ballots drawn to be endorsed with date of draft and returned into box.
17. When jurors to be drawn.
18. Thirty-six petit jurors to be drawn at one time.
19. Empanneling of jurors.
20. Supernumerary jurors; transfers of jurors.
21. Each jury to choose a foreman.
22. Empanneling in criminal cases.
23. Insufficiency in juries; proviso.
24. Additional jurors to be present during term.

Objections to Jurors.

25. Jurors may be examined by Court; if not indifferent may be set aside.
26. Two jurors may be challenged by either party without cause shown.
27. In penal actions, payment of taxes no cause of challenge.
28. Objections made after trial.
29. Vacating judgments for irregularity of *venire facias*, &c.
30. If juror receive any treat or gratuity Court may set aside verdict.

Verdicts.

31. Jury failing to agree not to be sent out more than twice without their own consent.

Pay of Jurors.

32. To make oath of number of days' attendance.
33. Pay; mileage.
34. Jury to receive one dollar in each case tried.

Special Juries.

35. Trial by special jury repealed except where both parties desire it.
36. Manner of drawing special juries; summoning special jurors.
37. Authority; subject to legal challenges.

General Provisions.

38. Jury may view place, property, or thing in question; proviso.
39. Penalty for non-attendance.
40. Penalty for neglect of duty in drawing jurors.
41. Power of Coroners, &c., to summon jurors.

Jury Commissioners.

To be appointed by Governor; County Board, how constituted; Commissioner to hold office 2 years. 1871, XIV, 690, § 4.

SECTION 1. That there shall be appointed by the Governor, and confirmed by the Senate, one officer for each County in the State, to be named and designated a Jury Commissioner, who, with the County Auditor and Chairman of the Board of County Commissioners, shall constitute a Board of Jury Commissioners for the County. Said Jury Commissioner shall hold his office for two years, unless sooner removed by the Governor.

Pay of Jury Commissioners. Ib., 693, § 27½.

SEC. 2. The Jury Commissioners, appointed by the Governor, shall receive for their services three dollars per day for every day's actual service in performing the duties imposed by this Chapter, such number of days not to exceed the number of days the Court for such County shall be in session, together with five days to complete the list and draw the jurors, to be paid out of the Treasury for their respective Counties.

SEC. 3. The Board of Jury Commissioners of each County shall once in every year, during the month of January, prepare a list of such inhabitants of their respective Counties, not absolutely exempt, as they may think well qualified to serve as jurors, being persons of good moral character, of sound judgment, and free from all legal exceptions, which list shall include not less than one from every twenty voters, nor more than one from every ten voters, of their respective Counties.

County Board to prepare, each year, lists of qualified jurors.
Ib., 690, § 5.

SEC. 4. Of the list so prepared, the Board of Jury Commissioners shall cause the names to be written, each one on a separate paper or ballot, and shall fold up said pieces of paper or ballots so as to resemble each other as much as possible, and so the name written thereon shall not be visible on the outside, and shall place them in a box, to be furnished them by the County Commissioners of their County for that purpose, and by said Board of Jury Commissioners to be kept.

Names to be on separate ballots and placed in jury box.
Ib., 694, § 6.

SEC. 5. If the Board of Jury Commissioners shall be guilty of fraud, either by practicing on the jury box previously to a draft, or in drawing a juror, or in returning into the jury box the name of any juror which had been lawfully drawn out, and drawing or substituting another in his stead, or in any other way in the drawing of jurors, he shall be punished by a fine not exceeding five hundred dollars, or be imprisoned not exceeding two years in the State Penitentiary.

Jury Commissioners guilty of fraud; punishable by fine or imprisonment.
Ib., 694, § 3.

Qualifications of Jurors.

SEC. 6. That all persons who are qualified to vote in the choice of Representatives in the General Assembly shall be liable to be drawn and serve as jurors, except as hereafter provided.

Qualified voters liable.
Ib., 690, § 1.

SEC. 7. The following persons shall be exempt from serving as jurors, to wit: The Governor, Lieutenant Governor, Attorney General, Comptroller General, State Auditor, State Treasurer, Secretary of State, Superintendent of Education, Commissioner of Agricultural Statistics, members and officers of the Senate and House of Representatives during the sessions of the General Assembly, members of the Senate and House of Representatives of the United States, Judges and Justices of any Court, County Commissioners, County Auditors and Treasurers, Clerks of Courts, Registers of Mesne Conveyances, Sheriffs and their Deputies, Coroners, Constables, the Marshals of the United States and their Deputies, and all other officers of the United States, counsellors and attorneys-at-law, ordained ministers of the Gospel, officers of colleges, preceptors and teachers of academies, practicing physicians, and surgeons regularly licensed, cashiers and tellers of incorporated banks, editors of newspapers, constant ferrymen, millers carrying on that business at the time, and all men actually employed as such, persons who are more than sixty-five years old; and the following officers and employees of railroads: the Chief Engineer, Assistant Engineers, Commissioner or Superintending officer, Secretary and Auditor or Treasurer of Directors, keepers of depositories, guards stationed on road to protect it from injury, not ex-

Persons exempt from serving as jurors.
Ib., 2 1832 VIII, 380, 1; 1856, VIII, 447, § 22, &c.

ceeding one man to every five miles, and such persons as may be actually employed in working locomotive engines, traveling with cars for the purpose of attending to the transportation of passengers and goods, not exceeding one engineer and assistant to each steam engine and one person to each passenger car and to every five cars for transporting goods, while such persons are actually employed.

No person liable to be drawn more than once each year. Proviso. Ib., § 3.

SEC. 8. No person shall be liable to be drawn and serve as a juror in any Court oftener than once in every year; but he shall not be so exempt, unless he actually attends and serves as a juror in pursuance of the draft: *Provided*, No person shall be exempt from serving on a jury in any other Court in consequence of his having served before a Trial Justice.

Persons guilty of crime not to be drawn. Ib., 691, § 7.

SEC. 9. If any person whose name is placed in the jury box is convicted of any scandalous crime, or is guilty of any gross immorality, his name shall be withdrawn therefrom by the Board of Jury Commissioners, and he shall not be returned as a juror.

Venires.

Clerk of Court; when and how to summon jurors.

SEC. 10. That the Clerk of the Court of Common Pleas in each County, at least fifteen days before the commencement of any regular term of the Court of General Sessions for the County, and ten days before any special session requiring a jury, and in the County of Charleston like periods before the first of each alternate week of the Court of Common Pleas, and at such other times as the respective Courts may order, shall issue writs of *venire facias* for jurors, and shall therein require the attendance of jurors on the first day of the term, and for the Court of Common Pleas for the County of Charleston on the first and each alternate week thereafter, and such other days as the Courts may order. The petit jurors returned for the Court of General Sessions for Charleston County shall serve for the term, and the jurors returned for the Court of Common Pleas for two weeks; the jurors for the Court of General Sessions for all other Counties shall serve for the term, and for the term of the Court of Common Pleas immediately following.

Jurors to serve for what time. Ib., § 8. 2 Spear, 216; 1 Rich., 189; 3 Strob., 39.

Sheriff to serve *venires*. Ib., § 9.

SEC. 11. The *venires* shall be delivered to the Sheriff of the County, and shall be served by him, without delay, upon the Board of Jury Commissioners of the County.

Clerk may issue *venires* for additional jurors in term time, if ever necessary. Ib., § 10.

SEC. 12. Nothing contained in this Chapter shall prevent the Clerk of any Court of Common Pleas from issuing *venires* for additional jurors in term time, whenever it is necessary for the convenient dispatch of its business, in which case the *venires* shall be served and returned, and the jurors required to attend on such days as the Court shall direct.

SEC. 13. The Sheriff shall, at least four days before the time when the jurors are required to attend, summon each person who is drawn by reading to him the *venire*, with his endorsement thereon of his having been drawn, or by leaving at his place of abode a written notification of his having been drawn, and of the time and place of the sitting of the Court at which he is to attend, and shall make return of the *venire*, with his doings thereon, to the Clerk of the Court, before the opening or time of holding the Court from which it issued.

Sheriff to summon jurors and return *venires* to Clerk of Court.
Ib., § 692, 15.

Drawing and Empanneling of Jurors.

SEC. 14. That all jurors shall be selected by drawing ballots from the jury box, and the persons whose names are borne on the ballots so drawn shall be returned to serve as jurors.

Jurors, how selected.
Ib., 691, § 11.

SEC. 15. When jurors are to be drawn, the Board of Jury Commissioners shall attend at the office of the Clerk of the Court of Common Pleas within and for that County, and, in the presence of the Clerk of the Court and the Sheriff of the County, shall shake up the names in the jury box until they are well mixed, and having unlocked said box, the said Board of Jury Commissioners, in the presence of the Clerk of the Court and the Sheriff of the County, shall proceed to draw therefrom, without seeing the names written thereon, a number of ballots equal to the number of jurors required. If a person so drawn is exempted by law, or is unable, by reason of sickness or absence from home, to attend as a juror, or if he has served as a juror in any Court within the year then next preceding, his name shall be returned into the box, and another drawn in his stead; *Provided*, That if the Clerk and Sheriff shall fail to attend, after due notice, the Jury Commissioners shall proceed without them, and the jury so drawn shall be lawful.

To be drawn by Board at office of Clerk of Court, in presence of Clerk and Sheriff; if person drawn is exempt; if Clerk and Sheriff fail to attend.
Ib., § 12.

SEC 16. When any person is drawn and returned to serve as a juror in any Court, the Board of Jury Commissioners shall endorse on the ballot the date of the draft, and return it into the box after the number of jurors required have been drawn; and whenever there is a revision and renewal of the ballots in the box, the Board of Jury Commissioners shall transfer to the new ballots the date of all the drafts made within the year then next preceding.

Ballots drawn to be endorsed with date of draft, and returned into box, &c.
Ib., 692, § 13.

SEC. 17. The time for drawing jurors shall not be less than seven nor more than fifteen days before the day when the jurors are required to attend.

When jurors to be drawn
Ib., § 14.

SEC. 18. No more than thirty-six persons to serve as Petit Jurors shall be drawn and summoned to attend, at one and the same time, at any Court, unless the Court shall otherwise order.

Thirty-six petit jurors to be drawn at one time.
Ib., 694, § 36.

Empanneling of juries.
Ib., 692, § 16; 1797, V, 358.

SEC. 19. On the day when the jurors are summoned to attend at any Court, the Clerk shall prepare a list of their names arranged in alphabetical order. The first twelve on the list who are not exempt, shall be sworn and empanneled as a jury for the trial of causes, and shall be called the first jury. The next twelve on the list shall be sworn and empanneled in like manner, and shall be called the second jury.

Supernumerary jurors, transfers of jurors.
Ib., 17.

SEC. 20. Supernumerary jurors may be excused, from time to time, until wanted, and may be put on either of the juries, as occasion requires, in the place of absentees. Nothing herein contained shall prevent the transferring of jurors from one jury to another, when the convenience of the Court or of the jurors requires it.

Each jury to choose a foreman.
Ib., § 18.

SEC. 21. Each jury, after being thus empanneled, shall retire and choose their foreman, or shall make such choice upon retiring with the first cause with which they are charged: and whenever the foreman is absent or excused from further service, a new foreman shall be chosen in like manner.

Empanneling in criminal cases.
Ib., 19.

SEC. 22. Nothing contained in the preceding Sections shall apply to the empanneling of juries, in criminal cases; but the jurors shall be called, sworn and empanneled anew for the trial of each case, according to the established practice, and their foreman shall be appointed by the Court or by the jury when they retire to consider their verdict.

Insufficiency in juries.

Proviso.
Ib., 20.

SEC. 23. When, by reason of challenge, or otherwise, a sufficient number of jurors, duly drawn and summoned, cannot be obtained for the trial of any cause, civil or criminal, the Court shall cause jurors to be returned from the by-standers, or from the County at large, to complete the panel: *Provided*, That there are on the jury not less than seven of the jurors who were originally drawn and summoned, as before provided.

Additional jurors to be present during term.
Ib., 636, 21.

SEC. 24. The jurors so returned from the by-standers, or the County at large, by the Sheriff, shall be present during the entire term of sitting of any Court in their respective Counties, and shall be such as are qualified and liable to be drawn as jurors, according to the provisions of this Chapter.

Jurors may be examined by Court; if not indifferent, may be set aside.
Ib., 22.

SEC. 25. The Court shall, on motion of either party in suit, examine, on oath, any person who is called as a juror therein, to know whether he is related to either party, or has any interest in the cause, or has expressed or formed any opinion, or is sensible of any bias or prejudice therein, and the party objecting to the juror may introduce any other competent evidence in support of the objection. If it appears to the Court that the juror is not indifferent in the cause, he shall be placed aside as to the trial of that cause and another shall be called.

Objections to Jurors.

Two jurors may be challenged by either party without cause shown
1841, XI, 154, § 1. 2 Spear, 423; 2 Rich., 199; 3 Strob., 490

SEC. 26. In all civil cases in which a jury shall be charged with the trial of any issue, each party shall have the right to challenge, without cause therein, two of the jury so empannelled, and the place of the jurors so challenged shall be supplied as provided by law.

In penal actions, payment of taxes no cause of challenge.
1871, XIV, 693, § 23.

SEC. 27. In indictments and penal actions for the recovery of a sum of money, or other thing forfeited, it shall not be a cause of challenge to a juror that he is liable to pay taxes in any County, city or town, which may be benefitted by such recovery.

Objections made after trial.
Ib., § 24.

SEC. 28. If a party knows of any objection to a juror in season to propose it before the trial, and omits to do so, he shall not afterwards be allowed to make the same objection, unless by leave of the Court.

Vacating judgments for irregularity of *venire facias*, &c
Ib., § 25.

SEC. 29. No irregularity in any writ of *venire facias*, or in the drawing, summoning, returning or empanneling of jurors, shall be sufficient to set aside the verdict, unless the party making the objection was injured by the irregularity, or unless the objection was made before the returning of the verdict.

If juror receives any treat or gratuity, Court may set aside verdict.
Ib., § 26.

SEC. 30. If either party in a case in which a verdict is returned during the same term of the Court, before the trial, gives to any of the jurors who try the cause anything by way of treat or gratuity, the Court may, on the motion of the adverse party, set aside the verdict, and award a new trial of the cause.

Verdicts.

Jury failing to agree not to be sent out more than twice without their own consent.
Ib., § 27.

SEC. 31. When a jury, after due and thorough deliberation upon any cause, return into Court, without having agreed upon a verdict, the Court may state anew the evidence, or any part of it, and explain to them anew the law applicable to the case, and may send them out for further deliberation; but if they return a second time without having agreed upon a verdict, they shall not be sent out again without their own consent, unless they shall ask from the Court some further explanation of the law.

Pay of Jurors.

To make oath of number of days attendance.
1826, VI, 29, § 3.

SEC. 32. That immediately after the conclusion of each Court where petit jurors serve, each juror shall, before the Clerk of such Court, prove on oath the number of days he shall have served or attended to serve as a petit juror at such Court.

Mileage.
1858, XII, 740, § 1.

SEC. 33. Every grand and petit juror entitled to pay, shall receive as compensation for his services one dollar and fifty cents per day, for each day he shall serve as a juror, and five cents for every mile he is compelled to travel, in going and returning to and from the court house and the place of his residence, which amount shall be charged but once for each term of the Court.

Jury to receive $1 in each case tried.—1791, V, 174. 2 N. & McC., 442.

SEC. 34. The jury, in each case tried, shall receive one dollar.

Special Juries.

Trial by special jury repealed, except where both parties desire it 1795, V, 306, § 1.

SEC. 35. That the right of trial by special jury is abolished, except that where both parties are desirous of having their cause tried by a special jury it shall and may be lawful for the Judges of the Court of Common Pleas, after the common docket shall have been disposed of, to try by a special jury or juries any cause or causes which the said parties are desirous of having so tried.

Manner of drawing special juries.

SEC. 36. Special juries shall be drawn in the following manner: Each party, plaintiff and defendant, shall give in or deliver to the other the names of any eighteen persons, having the qualifications of grand jurors, whom he, she or they would choose for jurors in the case controverted, out of which lists each party shall strike out the names of such eight persons whose names were given in by the other party as he, she or they may choose to reject, and out of the ten persons remaining on each list, each party shall mark or name such ten persons on the list of the adverse party as he, she or they may think fit to have summoned as talesmen; and the twenty men who shall be chosen for jurymen and talesmen, as before directed, shall be summoned by the Sheriff of the County in which the cause is to be tried, at least six days (or any shorter time, if the parties shall consent thereto,) before the meeting of the Court in the said County, to attend on the said Court as a special jury, and as talesmen, if occasion shall require; and if all the twelve men who shall be summoned for the special jury shall not attend at the Court, and at the time to which they shall be summoned, then out of the number of those who shall be summoned for talesmen, and shall attend as such, each party shall, out of the talesmen of the adverse party, choose so many as shall be requisite to make up, together with such of his, her or their own special jurymen as shall have attended agreeably to their summons, the number of six, to the end that in every cause tried by a special jury each party may have six jurymen of his, her or their own choice. But if out of the ten men summoned as a special jury and talesmen, on behalf of each party in any cause, six men shall not appear on behalf of both or either of the parties, then each party shall instanter give in to the Court the names of so many men from the vicinity of the court house as will make three times the number wanted to make up his, her or their compliment of six jurors, who shall be immediately summoned by the Sheriff of the County to give their attendance; and, out of the number who shall attend after being so summoned, each party shall choose as many as will make up his, her or their complement of six jurors.

Summoning special jurors. 1791, VII, 272, § 1.

Authority; subject to legal challenges. Ib.

SEC. 37. Every jury so drawn shall constitute a special jury, to hear, try and determine any such cause as shall be submitted to them: *Provided, always, nevertheless,* That nothing herein contained shall debar any person of or from legal challenges to any of the said jurors.

General Provisions.

SEC. 38. The jury in any case may, at the request of either party, be taken to view the place or premises in question, or any property, matter, or thing relating to the controversy between the parties, when it appears to the Court that such view is necessary to a just decision: *Provided*, The party making the motion advances a sum sufficient to pay the actual expenses of the jury and the officers who attend them in taking the view, which expenses shall be afterwards taxed like other legal costs, if the party who advanced them prevails in the suit.

Jury may view place, property, or thing in question.

Proviso.

1871, XIV, 693, § 28.

SEC. 39. If a person duly drawn and summoned to attend as a juror in any Court neglects to attend, without sufficient excuse, he shall pay a fine not exceeding twenty dollars, which shall be imposed by the Court to which the juror was summoned, and shall be paid into the County Treasury.

Penalty for non-attendance.

Ib., 694, § 29.

SEC. 40. When, by neglect of any of the duties required by this Chapter to be performed by any of the officers or persons herein mentioned, the jurors to be returned from any place are not duly drawn and summoned to attend the Court, every person guilty of such neglect shall pay a fine not exceeding one hundred dollars, to be imposed by the same Court, to the use of the County in which the offence was committed.

Penalty for neglect of duty in drawing jurors.

Ib., § 30.

SEC. 41. Nothing contained in this Chapter shall affect the power and duty of Coroners, or Trial Justices, to summon and empannel jurors when authorized by other provisions of law.

Power of Coroners, &c., to summon, &c., juries.

Ib., § 32.

TITLE III.

OF REMEDIES RELATING TO REAL PROPERTY.

CHAPTER CXII. *Of Certain Proceedings by Remaindermen, Heirs, &c.*
CXIII. *Of the Allotment of Dower.*
CXIV. *Of Proceedings on the Partition of Real Estate.*
CXV. *Of Forcible Entry and Detainer.*
CXVI. *Of the Foreclosure and Redemption of Mortgages.*
CXVII. *Of Escheat.*

CHAPTER CXII.

OF CERTAIN PROCEEDINGS BY REMAINDERMEN, HEIRS, &C.

SEC.
1. Remaindermen, &c., may compel guardians, &c., to produce the minor, &c.
2. If not produced, to be taken to be dead, and claimant may enter on land, &c.
3. On affidavit that minor, &c., is beyond sea, claimant may send over persons to view such minor, &c.
4. If it appear that infant, &c., is alive, after order made, such infant, &c., may re-enter.
5. Guardian to continue in possession, &c., in certain cases.
6. Guardians, &c., holding estates after determination of life of minor, &c., adjudged trespassers.
7. Heirs, &c., may recover damages.
8. Right of entry not taken away from lawful heirs, &c., by reason of any disseizor dying seized, &c.

Remaindermen, &c., may compel guardians, &c., to produce the minor, &c.

6 Ann, c. 18; 1712, II, 561, § 1.

SECTION 1. That any person who shall have any claims or demand in or to any remainder, reversion, or expectancy, in or to any estate after the death of any person within age, married woman, or any other person whatsoever, upon affidavit made by the person so claiming such estate, of his or her title, and that he or she has cause to believe that such minor, married woman, or other person is dead, and that his or her death is concealed by such guardian, trustee, husband, or any other person, may, once a year, apply to the Court of Common Pleas for an order requiring such guardian, trustee, husband or other person concealing or suspected to conceal such person, at such time and place as the said Court shall direct, on personal or other due service of such order, to produce and shew to such person and persons (not exceeding two) as shall in such order be named by the party prosecuting such order, such minor, married woman, or other person aforesaid.

If not produced, to be taken to be dead, and claimant may enter on land, &c.

Ib.

SEC. 2. If such guardian, trustee, husband, or other person as aforesaid, shall refuse or neglect to produce or shew such infant, married woman, or other person, on whose life any estate depends, according to the directions of the said order, the Court of Common Pleas is hereby authorized and required to order such guardian, trustee, husband, or other person, to produce such minor, married woman, or other person concealed, in the said Court, or before Commissioners to be appointed by the said Court, at such time and place as the Court shall direct, two of which Commissioners shall be nominated by the party prosecuting such order,

at his or her costs and charges; and in case such guardian, trustee, husband, or other person, shall refuse or neglect to produce such infant, married woman, or other person so concealed, in the said Court, or before such Commissioners, (whereof return shall be made by such Commissioners, and that return filed in the Clerk's office of said Court,) the said minor, marrried woman, or such other person so concealed, shall be taken to be dead, and it shall be lawful for any person claiming any right, title or interest in remainder or reversion, or otherwise, after the death of such infant, married woman, or such other persons so concealed, as aforesaid, to enter upon such lands, tenements and hereditaments, as if such infant, married woman, or other person so concealed, were actually dead.

On affidavit that minor, &c., is beyond sea, claimant may send over person to view such minor, &c.

Ib., 562, § 2.

SEC. 3. If it shall appear to the said Court, by affidavit, that such minor, married woman or other person, for whose life such estate is holden, is, or lately was, at some certain place beyond the seas, in the said affidavit to be mentioned, it shall and may be lawful for the party prosecuting such order, as aforesaid, at his or her costs and charges, to send over one or both the said persons appointed by the said order, to view such minor, married woman or other person, for whose life any such estate is holden; and in case such guardian, trustee, husband or other person concealing or suspected to conceal such persons as aforesaid, shall refuse or neglect to produce or procure to be produced to such person or persons, a personal view of such infant, married woman or other person, for whose life any such estate is holden, such person or persons are hereby required to make a true return of such refusal or neglect to the Court of Common Pleas, which return shall be filed in the Clerk's office, and thereupon such minor, married woman or other person, for whose life any such estate is holden, shall be taken to be dead; and it shall be lawful for any person claiming any right, title or interest in remainder, reversion or otherwise, after the death of such infant, maried woman or other person for whose life any such estate is holden, to enter upon such lands, tenements and hereditaments, as if such infant, married woman or other person for whose life any such estate is holden, were actually dead.

If infant, &c., alive, after order made, such infant, &c., may reenter.

Ib., § 3.

SEC. 4. If it shall afterwards appear upon proof, in any action to be brought, that such infant, married woman or other person, for whose life any such estate is holden, were alive at the time of such order made, it shall be lawful for such infant, married woman, guardian or trustee, or other person having any estate or interest, determinable upon such life, to re-enter upon the said lands, tenements, or hereditaments, and for such infant, married woman or other person, having any estate or interest determinable upon such life, their executors, administrators or assigns, to maintain action against those who, since the said order, received the profits of such lands, tenements or hereditaments, or their executors or administrators, and therein to recover full damages for the profits of the same, received from the time that such infant, married woman or other person, having any estate or interest determinable upon such life, were ousted of the possession of such lands, tenements or hereditaments.

Guardian to continue in possession, &c., in certain cases.
Ib., § 4.

SEC. 5. If any such guardian, trustee, husband, or other person or persons, holding or having any estate or interest determinable upon the life or lives of any other person or persons shall, by affidavit or otherwise, to the satisfaction of the said Court, make appear that he, she, or they have used his, her or their utmost endeavors to procure such infant, married woman, or other person or persons, on whose life or lives such estate or interest depends, to appear in the said Court, or elsewhere, according to the order of the said Court in that behalf made, and that he, she or they cannot procure or compel such infant, married woman, or other person or persons, on whose life or lives such estate or interest depends is, are, or were living at the time of such return made and filed as aforesaid, it shall be lawful for such person or persons to continue in the possession of such estate, and receive the rents and profits thereof for and during the infancy of such infant, and the life or lives of such married woman, or other person or persons, on whose life or lives such estate or interest does or shall depend.

Guardian, &c., holding estates after determination of life of minor, &c., adjudged trespassers
Ib., 553, § 5

SEC. 6. Every person who, as guardian or trustee for any infant, and every other person having any estate determinable upon any life or lives, who, after the determination of such particular estates or interests, without the express consent of him, her, or them, who are, or shall be, next and immediately entitled upon and after the determination of such particular estates or interests, shall hold over and continue in possession of any lands, tenements or hereditaments, shall be, and are hereby, adjudged to be trespassers.

Heirs &c., may recover damages.
Ib.

SEC. 7. Every person and persons, his, her and their executors and administrators, who are, or shall be, entitled to any such lands, tenements and hereditaments, upon or after the determination of such particular estates or interests, shall and may recover in damages against every such person or persons so holding over as aforesaid, and against his, her, or their executors or administrators, the full value of the profits received during such wrongful possession as aforesaid.

Right of entry not taken away from lawful heirs, &c., by reason of any disseizor dying seized, &c.
32 H. 8, c. 33; 1712, II, 474
Code of Procedure, § 101.

SEC. 8. The dying of any disseizor, seized of or in any lands, tenements, or other hereditaments, having no right or title therein, shall not be taken or deemed any such descent as to take away the entry of any such person or persons, or their heirs which, at the time of the same descent, had good and lawful title of entry into said lands, tenements or hereditaments, except such disseizor has had the peaceable possession of such lands, tenements or hereditaments, for the space of twenty years next after the disseizin therein by him committed, without entry or continual claim by or of such person or persons as have lawful title thereunto.

CHAPTER CXIII.

OF ALLOTMENT OF DOWER.

SEC.
1. Married women may apply to Probate Court for admeasurement of dower.
2. Party in possession of real estate to be summoned to show cause why petition should not be granted.
3. If no cause shown, writ to be issued to five persons to admeasure dower; Commissioners, how appointed; to return plat of lands, with certificate of manner in which admeasurement was made; certificate to be recorded and to be final and conclusive on all parties concerned.
4. If person appearing against petition refuses to nominate Commissioners, the Court shall appoint them instead.
5. Expenses of admeasurement to be paid by claimant.
6. Commissioners to have regard to real value of land; if it cannot be fairly divided, to assess a sum of money in lieu of dower.
7. Value of dower, how assessed.

SECTION 1. That it shall and may be lawful for any woman who is entitled to dower or thirds in the lands of which her deceased husband was seized in fee at any time during their marriage to apply to the Judge of Probate of the County in which said lands are situated for a writ of admeasurement thereof, to be directed to certain persons who shall be appointed for that purpose.

Married woman may apply to Probate Court for admeasurement of dower.

1786, IV, 742, § 2; 1789, VII, 294, § 7; 1868, XIV, 77, § 4. Con. Art. 5, § 20. 3 Strob., 562; 4 Strob., 57; 6 Rich., 266; 1 McM., 215; 2 McC., 54; 1 Bail., 77; 3 Rich., 66; Bail. Eq., 64; 2 Mill., 59; 2 Des., 51, 474; 4 Des., 637; 1 McC. Eq., 276; 2 Tread., 12.

SEC. 2. Immediately thereupon, the Judge of the Probate Court shall cause a summons to be issued and directed to the heir-at-law of the deceased, (if of full age,) or to his or her guardian, (if he or she shall be an infant,) and if there be no guardian, then to the executor or administrator of the deceased, or to any other person or persons who may be in the possession of any of the said lands, commanding him, her or them to appear at the Probate Court to be held in the County where the lands are situated, that shall be held ten days after the service of the summons above mentioned, and show cause why the prayer of the petition should not be granted.

Party in possession of real estate to be summoned to show cause why petition should not be granted.

1786, IV, 742, § 3. 1 Brev., 77; 2 Bail., 319; 1 Mill., 130; 5 Strob., 713; 9 Rich., 395.

SEC. 3. On the return of the summons, if the heir-at-law, or his or her guardian, (if he or she be an infant,) or any other person or persons who may be in possession of the said lands, shall appear, and shall not show sufficient cause againt the petition, then the said Court shall cause a writ for admeasurement of dower to be issued and directed to five persons, two of whom shall be nominated by each of the said parties, and a fifth by the Court, commanding them, or a majority of them, within one month thereafter, (being first duly sworn for that purpose,) fairly, justly and impartially, according to the best of their judgment, to admeasure and mete out to the said petitioner, and put her in full and peaceable possession of one-third part of all the lands of her deceased husband; and when they have so done, they, or a majority of them, shall immediately return a general plat of the said lands, with a certificate thereon in writing, under their hands and seals, describing the manner in which they have made the admeasurement aforesaid, into the office of the said Court, there to be recorded, and the same shall be final and conclusive on all parties concerned therein.

If no cause shown writ to be issued to 5 persons to admeasure dower; Commissioners, how appointed; to return plat of lands, with certificate of manner in which admeasurement was made. Certificates to be recorded, and to be final and conclusive on all parties.

Ib. 1 McM., 31; Bail. Eq., 324.

If person appearing against petition refuses to nominate Commissioners, the Court shall appoint them instead.

Ib., 743, § 3.

SEC. 4. If the person who shall be served with the said summons shall appear on day named therein, and, not showing sufficient cause against the petition, shall refuse to nominate two persons in the manner and for purposes above directed, then the Court shall appoint them in behalf of such heir, or other person in possession of the said land, and they, together with those nominated by the petitioner, shall make such allotment and admeasurement as before required; and the said Commissioners, so appointed, or a majority of them, having made due return thereof, the same shall be as effectual and binding on all parties as if done in the manner first above prescribed.

Expenses of admeasurement to be paid by claimant.

Ib., § 4.

SEC. 5. The persons who shall be appointed to make such admeasurement of dower, or a majority of them, may, if they shall think necessary, call in to their aid one or more surveyors to run the lines of the said lands, and also the division lines thereof; and the expenses that may be incurred in making such admeasurement of dower as aforesaid, shall be paid by the person or persons who claim the property, or are in possession of the said lands.

Commissioners to have regard to real value of land; if it cannot be fairly divided, to assess a sum of money in lieu of dower.

Ib., 712, § 2. 1 Bay, 495; 3 Brev., 482; 1 Hill, 200; 1 Bail., 277; 2 Bail., 343; 4 Rich., 517; 1 Spears, 139; 2 Treadw., 626; 1

SEC. 6. The said Commissioners, or a majority of them, shall have power, and they are authorized and required, in the admeasurement aforesaid, to have relation and regard to the true and real value of the lands in question; and where the same cannot, in the opinion of a majority of them, be fairly and equally divided, without manifest disadvantage, then they, or a majority of them, as aforesaid, shall assess a sum of money to be paid to the widow in lieu of her dower by the heir at law, or such other person or persons who may be in possession of the said land.

Bay., 454; 2 Bay., 449; Dudley's Eq., 124; 5 Rich., Eq., 254.

Value of dower, how assessed.

1824, VI, 238, § 3; 1825, VII, 330, § 12.

1 Bail., 277; 4 McC., 346; 2 Bail., 343; 1 N. & McC., 16; 1 S. C. R., 119; Bail. Eq., 64;

SEC. 7. On all assessments of dower against a purchaser, in behalf of a widow of a former owner, the value of the land at the time of alienation by the husband, with interest from the accrual of the right of dower, shall be taken and received by the Courts of this State, as the true value on which to assess the said dower.

Rice Eq., 168; 1 Strob. Eq., 103; 2 Hill Eq., 429; Rich. Eq. Ca., 378.

CHAPTER CXIV.

Of Proceedings on the Partition of Real Estate.

SEC.
1. Joint tenants and tenants in common compellable to make partition; joint tenants, &c., for life or years.
2. Probate Courts to have jurisdiction in partitions of real estate; if title disputed, to be referred to Circuit Court.
3. Actions to be tried where lands are situated.
4. On application for division or sale, heirs, &c., to be summoned; form of summons.
5. To be served on parties interested; to be served by Sheriff or by disinterested persons or accepted by parties.
6. In case minors are interested, Judge of Probate to appoint guardians *ad litem*, &c., and take bonds where required.
Consent of guardians to be endorsed on original summons.
7. In case of non-appearance, consent to be entered as confessed.
8. Judge of Probate to determine whether premises shall be sold or divided if no cause shown to the contrary.
9. If decision be for sale, order to be entered of record; form of order.
10. If for division Commissioners to be appointed to go on premises and make division. Return to be made with plats.
11. Form of writ to Commissioners.
12. Form of return of Commissioners.
13. If approved, to be endorsed, &c.
14. Partition to be prejudicial to none but parties.

SECTION 1. That all joint tenants and tenants in common, and every of them, which now hold, or hereafter shall hold, jointly or in common, for term of life, year or years, or joint tenants or tenants in common, where one or some of them have or shall have estate or estates for term of life or years, with the other that have or shall have estate or estates of inheritance or freehold in any lands, tenements or hereditaments, shall and may be compellable to make severance and partition of all such lands, tenements and hereditaments which they hold jointly or in common for term of life or lives, year or years, where one or some of them hold jointly or in common for term of life or years with other, or that have an estate or estates of inheritance of freehold.

Joint tenants and tenants in common compellable to make partition; joint tenants, &c., for life or years.

31 H. 8, c. 1; 1712, II, 47, § ; 32 H. 8, c. 33; Ib., 474, § 1.

SEC. 2. The Judge of Probate may exercise jurisdiction of all petitions for partition of real estate where no dispute exists in relation to the title thereof; and when the title to such real estate is disputed, he shall refer the same to the Circuit Court for adjudication, unless the parties shall consent to his determination of the same.*

Jurisdiction in partitions; title disputed.

1839, XI, 64, 26. 3 McC., 20. Code of Procedure, § 49.

SEC. 3. Actions for the partition of real property must be tried in the County in which the subject of the action, or some part thereof, is situated, subject to the power of the Court to change the place of trial, in the cases provided by statute.

Actions to be tried where lands are situated.

Code of Procedure, § 146. 1 N. & McC., 253.

SEC. 4. Upon the petition of any person or persons interested in any real estate, as aforesaid, the Judge of Probate shall proceed to issue his summons in the words following, (varying the same according to the circumstances of each case, respectively,) that is to say:

On application for division or sale, heirs, &c., to be summoned.

*NOTE.—So much of Section 26 of the Act of 1839, concerning the office and duties of Ordinary, Vol. 11, p. 64, as limits the jurisdiction of the Ordinary, in cases of partition to estates not exceeding one thousand dollars in value, is considered repealed by this Section.

"THE STATE OF SOUTH CAROLINA:

"To A. B., C. D., and E. F., legal heirs and representatives of G. H., who died intestate, (or devisees of G. H., in case he died leaving a will, which did not direct how a division was to be made,) Greeting:

Form of summons.

1748, III, 708, § 3; 1791, V, 163, § 7; 1824, VI, 248, § 2; 1839, XI, 64, § 27. Code of Procedure, §§ 48–67. Harper, 251; Harper's Eq., 106; 14 Rich. Eq., 5.

"You are hereby required to appear at the Court of Probate, to be holden at ——— Court House, for ——— County, on the —— day of ———, A. D. ——, to show cause, if any you can, why the real estate of G. H., deceased, described in the petition of ———, filed in my office, should not be divided or sold, allotting to the said A. B. one-third thereof, and the remaining two-thirds in equal portions to the said C. D. and E. F.

GIVEN under my hand and seal, this ——— day of ———, A. D. 18—.

J—— K———, [L. S.]
Judge of Probate, ——— County.

Summons to be served on parties interested; proof of service.

1824, VI, 248, § 3; 1839, XI, 64, § 27. Code of Procedure, § 158. 3 Strob., 108.

SEC. 5. Such summons shall be served upon those interested, and they shall be made parties, in like manner as in cases in the Court of Common Pleas; and the said summons may be duly served and proved by any disinterested persons, or by any Sheriff or his deputy; or the service of the same may be consented to by a written acceptance of the parties interested, endorsed by the said parties on the original summons.

Appointment of guardians *ad litem*, &c.; bonds, where required.

Consent of guardians to be endorsed on original summons.

1824, VI, 248, § 3; 1839, XI, 65, § 27. (See Code of Procedure, §§ 50, 158.)

SEC. 6. In case there are minors interested, the Judge of Probate shall have full power and authority to appoint a guardian or guardians, *ad litem*, in each case, as well as guardian or guardians for the estates of said minors so interested, as aforesaid, so far as relates to the interest of the said minors in the land to be divided, and take the usual bond or bonds in case of guardianship, wherever the case may require it; and shall take the written consent of such guardian or guardians, endorsed on the said original summons, in behalf of his, her or their ward or wards.

Consent by default

Ib.; 1824, 249, § 4.

SEC. 7. If a party or parties, residing without the State, shall not appear and show sufficient cause against the sale or division within the time required by law, then the said Judge of Probate shall proceed to enter of record, his, her or their consent, as confessed.

Judge of Probate to determine whether premises shall be sold or divided, if no cause shown to the contrary.

Ib.

SEC. 8. If upon the return of the original summons so issued as aforesaid, served, accepted, or consented to, there shall, in the opinion of the Judge of Probate, be no good cause shown why a division or sale of the said premises should not take place, he shall proceed to determine, upon the examination, on oath, of credible witnesses acquainted with the premises, whether it will be more for the advantage of the parties in interest, that the said premises shall be sold or divided.

If decision be for sale, order to be entered of record.

SEC. 9. If he should decide in favor of a sale, he shall enter of record an order for sale, in the following words, (varying the form according to the circumstances of the case,) viz:

A. B., Petitioner,
vs. } Order in Partition.
C. D. and E. F., Defendants.

On due examination it is ordered and decreed, that the lands described in the Petition in Partition, in this case, be sold by the Sheriff of ——— County, on the first Monday in ——— next, or on such other sale day as will be more advantageous for the parties in interest, on a credit of ———, the purchaser giving bond, with good security, and a mortgage of the premises, if deemed necessary, to the Judge of Probate, for the payment of the purchase money.

Form of order.
1824, VI, 249, § 4; 1839, XI, 66, § 7; 1870, XIV, § 4, 7, 1.
4 Rich., 19.

J. K., [L. S.]
Judge of Probate———County.

SEC. 10. In case the Judge of Probate shall determine in favor of the division of the said estate, he is hereby authorized and required to issue, under his hand and seal, his writ, directed to three or more discreet persons, a majority of whom shall have power to act, requiring them under oath, to be administered to each other, to go on the premises, assisted by a surveyor if necessary, and make a division among the parties interested, according to their respective rights, and the said Commissioners shall make their return to the said Judge of Probate, with the necessary plat, or plats, marks and designations.

If for division, Commissioners to make division; return to be made with plats.
1824, VI, 249; § 5; 1839, XI, 65, § 28.
1 McC., 546; 15 Rich., 223; 10 Rich. Eq., 323; 8 Rich. Eq., 82.

SEC. 11. Such writ shall be substantially in the following words, viz:

"THE STATE OF SOUTH CAROLINA, }
County. }

To L. M., N. O., and P. Q., or any two of them:

You are hereby required, with a surveyor if necessary, to go upon the land described in a petition, wherein A. B. is petitioner and C. D. and E. F. defendants, and to divide the same between the said parties in interest, according to their interests respectively: that is to say, allowing to the said A. B. one-third, thereof, and the remaining two-thirds between C. D. and E. F., (varying the writ, of course, according to the facts of each case,) and that you make your return to me on oath.

Form of writ to Commissioners.
Ib.

Given under my hand and seal, the day of
A. D. 18 .

J. K. [L. S.]
Judge of Probate ——— County."

SEC. 12. The return of the said Commissioners, or a majority of them, shall be in the words following, (to be varied as the case may require):

"SOUTH CAROLINA, }
County. }

We, L. M., N. O., and P. Q. Commissioners named in the writ, to divide between A. B., C. D. and E. F., a tract of land mentioned therein, have been upon the same, (or, are well acquainted with the quality, extent and situation of the same,) and value it at
, and do divide the same among the said parties, allotting to the

Form of return of Commissioners.
1824, VI, 250, § 6; 1839, XI, 66, § 29.

said A. B., (such a part, describing it,) and to C. D., and E. F., (certain other parts, describing each part distinctly, as will more clearly appear by plat thereof, hereunto annexed, dated the day of 18 .

Given under our hands and seals, this day of 18 .

L. M. [L. S.]
N. O. [L. S.]
P. Q. [L. S.]

If approved, to be endorsed, &c.
Ib.

SEC. 13. If the Judge of Probate shall approve of the said return, he shall endorse upon the same, the words "Examined, approved, and confirmed by me, this day of 18 .

J. K., Judge of Probate,
——— County."

Partition to be prejudicial to none but parties.
1 Hawk. Pl. Cr., c. 64, 32. H. 8, c. 32; 1712, II, 174, § 2.

SEC. 14. No partition or severance shall be prejudicial or hurtful to any person or persons, their heirs or successors, other than such as are parties unto the said partition, their executors or assigns.

CHAPTER CXV.

OF FORCIBLE ENTRY AND DETAINER.

SEC.
1. None but lawful and peaceable entry to be made
2. Trial Justices to have jurisdiction of forcible entries and detainers.
3. To put party ousted in possession
4. Feoffments made by person wrongfully in possession, void.
5. Action may be had against person wrongfully disseizing.
6. In case of recovery, plaintiff to have treble damages
7. Proceedings in cases of forcible entry, &c., same as in cases of tenants holding over.
8. Restitution of possession shall be given, to avoid entries with force, in estates for years, &c.
9. Not to relate to tenants who have held by force three years.

Entry to be made lawfully and peaceably.
5 R. 2, c. 2. 17 2, II, 142. 2 Brev., 145; 3 Brev., 113.

SECTION 1. That no person shall make any entry into any lands and tenements, but in case where entry is given by law; and in such case not with strong hand, nor with multitude of people, but only in peaceable and easy manner.

Trial Justices to have jurisdiction of forcible entries and detainers.
8 H. 6, c. 9. Ib., 411, § 3. 1 Brev., 119; 3 Brev., 111.

SEC. 2. Any two Trial Justices of the County wherein such lands and tenements may be situated shall have authority and power to inquire by the people of the same County, as well of them that make forcible entries in lands and tenements, as of them which hold the same with force.

To put party ousted in possession.
Ib. 2 N. & McC., 12[illegible].

SEC. 3. If it be found, before any of them, that any do contrary to this Chapter, then the said Trial Justices shall cause to be reseized the lands and tenements so entered or holden, as aforesaid, and shall put the party so put out in full possession of the same lands and tenements so entered or holden, as before.

SEC. 4. If any person, after such entry into lands or tenements holden with force, make a feoffment or other discontinuance to any person, to have maintenance, or to take away and defraud the possessor of his recovery in any wise, and afterwards in an action thereof to be taken or pursued before Trial Justices, by due inquiry thereof, such feoffments and discontinuances are duly proved, to be made for maintenance, as aforesaid, then such feoffments, or other discontinuances, shall be void, frustrate, and of none effect.

Feoffments, &c, made by person wrongfully in possession, void.
Ib.

SEC. 5. If any person be put out or disseized of any lands or tenements in forcible manner, or put out peaceably, and be afterwards holden out with strong hand; or, after such entry, any feoffment or discontinuance in any wise thereof be made, to defraud and take away the right of the possessor, the party grieved in this behalf shall have an action against such disseizor.

Action may be had against person wrongfully disseizing.
Ib., 445, § 6.

SEC. 6. If the party grieved recover in such action, and it be found by verdict, or in other manner by due form of law, that the party defendant entered with force into the lands and tenements, or, after his entry, did hold them with force, the plaintiff shall recover treble damages against the defendant.

In case of recovery plaintiff to have treble damages.
Ib.

SEC. 7. The forms and proceedings before Trial Justices, in cases of forcible entry and detainer, shall be the same as are prescribed by law in cases where tenants hold over, after the expiration of their leases.

Proceedings.
1829, VI, 383, § 17.

SEC. 8. Any two Trial Justices authorized and enabled, upon enquiry, to give restitution of possession unto tenants of any estate of freehold of their lands or tenements which shall be entered upon with force, or from them withholden by force, shall have the like and the same authority and ability (upon indictment of such forcible entries, or forcible withholdings, before them duly found,) to give like restitution of possession unto tenants for term of years, of lands or tenements by them so holden, which shall be entered upon by force, or holden from them by force.

Restitution of possession shall be given, to avoid entries with force, in estates for years, &c.
21 J. 1, c. 15. 171', II, 445. 1 Brev., 119; Harper, 503; 2 Hill, 367.

SEC. 9. They which keep their possessions with force in any lands and tenements whereof they or their ancestors, or they whose estate they have in such lands and tenements, have continued their possessions in the same by three years or more, shall not be endangered by force of this Chapter.

Not to affect tenants who hold lands by force three years.
8 H. 6, c. 9 1712, II, 445, § 7.

CHAPTER CXVI.

Of the Foreclosure and Redemption of Mortgages.

Sec.
1. Mortgagee not entitled to maintain possessory action for real estate mortgaged; all releases of equity of redemption good; not to apply when mortgagor is out of possession.
2. On judgment on bond, &c., secured by mortgage, Court to order sale of property; regulations of sale.
3. Mortgagor may prevent sale by paying plaintiff principal, interest and costs.
4. Mortgages to be paid in the order they are recorded.
5. Aliens may lend money and prosecute suits for its recovery.
6. To have same remedies as citizens except right to possession of mortgaged premises.

Possessory actions by mortgagee; releases of equity of redemption.

1791, V, 170, § 2; 1797, V, 351, § 1. 1 Hill Ch., 465; 1 Hill Ch., 342; 3 McC., 70; 4 McC. 340; 11 Rich., 686; 15 Rich., 246.

Proviso.

SECTION 1. That no mortgagees shall be entitled to maintain any possessory action for the real estate mortgaged, even after the time allotted for the payment of the money secured by mortgage is elapsed; but the mortgagor shall be still deemed owner of the land, and the mortgagee as owner of the money lent or due, and shall be entitled to recover satisfaction for the same out of the land, in the manner herein set forth: *Provided*, That, notwithstanding the foregoing provision, all releases of the equity of redemption shall be binding and effectual in law, and said provisions shall not apply when the mortgagor shall be out of possession.

On judgment on bond, &c., secured by mortgage, Court to order sale; regulations of sale.

1791, V, 169, § 1. 1 Hill Ch., 506; 3 McC., 42; 4 McC., 54.

SEC. 2. That on judgment being obtained in the Court of Common Pleas on any bond, note, or debt, secured by mortgage of real estate, it shall and may be lawful for the Court of Common Pleas, in case of any judgment having been obtained subsequent to the property being mortgaged, and prior to the obtaining judgment in the action hereby allowed to be commenced, to order the sale of the mortgaged property for the satisfaction of the moneys secured by the said mortgage, and to give a reasonable extension of the time when the same is to take place, not exceeding the term of six months from the judgment, and also to give a reasonable credit on the sale of the mortgaged premises, not exceeding the term of twelve months from the sale; and the mortgagor shall be forever barred and foreclosed by such sale from his equity of redemption.

Mortgagor may prevent sale; how.

Ib.

SEC. 3. If at any time before such sale, the mortgagor shall tender to or pay into the hands of the plaintiff, or his agent or attorney, or to the Sheriff, all the principal money and interest meant to be secured by such mortgage, and also all the costs of suit, the sale shall not take place, but the mortgagee shall enter satisfaction on the said mortgage, and the mortgaged premises shall be forever exempt from the said mortgage.

Mortgages to be paid in the order they are recorded.

Ib., § 3.

SEC. 4. Where the same lands are mortgaged at divers times, the debts meant to be secured by such mortgages shall be paid in the order the same are recorded, agreeably to law, and in no other order.

Aliens may lend money and prosecute recovery.

Ord., 1784, IV, 642, 1. 11 Rich., 700.

SEC. 5. It shall and may be lawful to and for every person and all persons, being aliens, to lend money, upon the security of any freehold or leasehold estate in this State, and to hold the same as an effectual security for the money lent, and to prosecute any suit or suits for the recovery of the same, whether the foreign State of which such alien is a subject be at war with the United States or not.

SEC. 6. In case of non-payment of the money lent upon any such security, with the interest due thereon, at the time therein stipulated and agreed upon, it shall and may be lawful to and for all and every such aliens to bring and prosecute any action for the recovery of their demands on any bond or other collateral security given or entered into, or on any covenant on the part of the borrower contained in any such mortgage, deed or deeds; in which action, the plaintiff or plaintiffs shall be entitled to like remedy and remedies for recovery of his debt and costs due, as any citizen of this State now may or can have, except the being entitled to have or obtain, directly or indirectly, the actual possession of any such mortgaged premises, by any process of execution whatever at the common law, or to foreclose the equity of redemption of such mortgaged premises by any decree or order of a Circuit Court.

To have same remedies as citizens except right to possession of mortgaged premises.

Ib., § 2. 11 Rich., 700.

CHAPTER CXVII.

OF ESCHEAT.

SEC.

Proceedings for the Escheat of Property.

1. Each escheator to notify Judge of Circuit Court of any supposed escheated lands.
2. Judge to cause jury to make inquest; same to be certified to escheator; escheator to record same and return original to Court.
3. On return of inquest, lands to be advertised for six months with name of person last seized, &c.
4. If not claimed for twelve months after advertising, lands to be escheated and sold.
5. Sales to be advertised for six weeks.
6. Lands may be divided into smaller tracts; proceeds of sale to be paid into Treasury.
7. Person making good title within five years to have compensation.
8. Lands to be committed to claimant on his giving security, &c.
9. Where no claimant appears escheators to rent lands, &c.; escheator liable for damages if he prosecutes without probable cause.
10. State not precluded from making inquest, &c.; not to affect lands claimed under grants, &c., for five years prior to July 4, 1766.
11. Personal estate, to which there is no heir, shall revert to the State.
12. State Treasurer to advertise same for six months; if not claimed in two years to vest in State.
13. Rights of persons under disabilities reserved for three years after their removal.
14. This Chapter to be observed where persons die without heirs.
15. Estates of felons to descend to their representatives.
16. Not to contravene any treaty, &c., between U. S. and foreign powers.

Escheators.

17. Appointment of escheators; term of office, bond, &c.; no member of Legislature to be.
18. Oaths.
19. Certain corporations may appoint escheators; City Council of Charleston may appoint deputy escheator.
20. Escheators not to purchase escheated estates; penalty.
21. Commissions of escheators.
22. Penalty for neglect.

Proceedings for the Escheat of Property.

SECTION 1. That each of the escheators, appointed as hereinafter directed, in every case where, on their knowledge or belief, or on the information of another, that certain lands in their respective Counties have been escheated to the State by the death of the person last seized in fee simple, either in law or in fact, without leaving any person who can lawfully claim such lands, either by purchase or descent from such former proprietor, shall, on such knowledge or information, or the order of any Court of record, issue his notification of such supposed escheated lands

Escheators to notify Judges of Circuit Court of any supposed escheated lands.

1787, V, 47, § 2. 3 Brev., 254; 1 Mill, 454; 2 N. & McC., 293; 3 DeS., 213. 7 Rich., 87 (See Code of Procedure, 462; see Miller's Compilation, 189.)

to one of the Judges of the Circuit Court, at least two months previous to the next session of the said Court to be held in the County where such lands lie.

Judge to cause jury to make inquest; same to be certified to escheator; escheator to record, &c.
Ib.

SEC. 2. The Judge presiding at such Court shall cause the jury (being first duly sworn) to proceed and make a true inquest of all such supposed escheated lands, which by the escheator shall be subjected to their investigation, and a true verdict make thereon; whereupon the Judge of the Court aforesaid shall certify the same, under his hand and the seal of the Court, to the escheator, who is hereby ordered and directed to record the same in a book to be kept by him for that purpose, and shall return the original within two months after the date thereof into the office of the Clerk of the said Court, to be there filed and kept as a record thereof.

On return of inquest lands to be advertised, &c.
Ib., § 3.
1820, XI, 110, § 24. See Miller's Compilation, 194.)

SEC. 3. On the return of any inquest of supposed escheated lands by the escheator, into the office of the Clerk of the County where the lands lie, he shall thereupon cause to be advertised, in a newspaper of the County, or other nearest gazette, the first week in every month, for six months, a notice containing a particular description of the lands, the name of the person last seized, and the supposed time of his or her death, together with the part of the world in which he or she was supposed to have been born, and requiring his or her heirs, or others claiming under him or her, to appear and make claim.

If not claimed, lands to be escheated and sold
Ib.
2 Brev., 321

SEC. 4. If no person shall appear and claim the same within twelve months after the expiration of the time prescribed for advertising, the said Clerk shall issue process, to be signed by the Judge of the Circuit Court of the said County, to the escheator, pronouncing the said lands escheated and vested according to law, and directing him forthwith to sell and convey the same upon the usual notice.

Sales to be advertised, &c.
17 7, V, 47, § 4.

SEC. 5. As soon as the escheator shall receive the process in the preceding Section mentioned, he shall advertise the sale of said lands, in a newspaper of the County, or other nearest gazette, and also in the most public places of the County in which the lands lie, (giving six weeks' public notice,) on a credit of twelve months, payable in current money; and shall, moreover, take good and sufficient surety, and a mortgage of the premises, before the title shall be altered or changed.

Lands may be divided, &c.; proceeds of sale to be paid into Treasury
Ib., § 5.

SEC. 6. Where the lands shall exceed six hundred acres, and can be divided into smaller tracts, with advantage to the State in the sale thereof, the escheator shall cause the same to be divided in such manner as shall be most beneficial to the State; and the proceeds arising from such sale shall be forthwith paid into the public Treasury whenever the same shall become due and recovered.

Person making good title, &c.; to have compensation.
Ib.
13 Rich., 77.

SEC. 7. If any person shall appear, within five years, and make good title to such lands, in the Court of Common Pleas, on an issue tried, he shall forthwith receive adequate compensation.

SEC. 8. Any person, without delay, shall be heard on a traverse, in the Court of Common Pleas, on a petition setting forth his right, and the said lands shall be committed to him, if he shall show good evidence of his title, to hold until the right shall be found and discussed for the State and the claimant; such claimant finding sufficient security to prosecute his suit with effect, and without delay, and to render to the State the yearly value of such lands, if the right be found for the State.

Lands to be committed to claimant on his giving security, &c.

Ib., § 6.
1 Spears, 525.

SEC. 9. Where no claimant shall appear to make title, as aforesaid, the escheators shall rent out the escheated lands, if the same can be done with advantage to the State, until the process of escheat shall be concluded and the lands sold: *Provided, nevertheless*, That if any suit for property supposed to be escheated shall be prosecuted by any escheator, and the jury before whom such trial shall be had shall think there is no probable cause, such jury are authorized and required to assess and award to the party grieved such damages as they shall think proper.

Where no claimant appears escheators to rent lands, &c.; escheators liable for damages—when.

Ib.

SEC. 10. The State shall not be precluded by possession, grant, conveyance, or any other cause or title, from making inquest and sale of all such lands as have heretofore escheated to the State by the death of the person last seized thereof: any law, custom or usage to the contrary notwithstanding: *Provided*, That no lands claimed under grant, or under an actual possession for five years, prior to the fourth of July, one thousand seven hundred and seventy-six, shall be affected by this Section.

State not precluded from making inquest, &c.; not to affect certain lands.

Ib., 48, § 7.
3 McC., 518.

SEC. 11. Where any moneys or other personal estate shall be found in the hands of an executor or administrator, being the property of any person heretofore deceased, or hereafter dying, and leaving no person entitled to claim, according to the provisions of Chapter LXXXV of this Act, and without making disposition of the same, the escheator of the County where such chattels shall be found, or the Attorney General, on behalf of the State, shall and may sue for, recover, and pay the same into the Treasury of the State.

Personal estate to which there is no heir to revert to State.

Ib., § 8.
2 Bail., 487; Rich. Eq. Ca., 452.

SEC. 12. The State Treasurer for the time being shall advertise such chattels in some newspaper, once in every month, for six months, in like manner as lands are hereinbefore directed to be advertised, and if no person shall appear and make good title to such personal estate within two years thereafter, other than as executor or administrator, or their legal representatives, then such personal estate shall become vested in and applied to the use of the State.

State Treasurer to advertise same, &c.; if not claimed to vest in State.

Ib.

SEC. 13. Nothing herein contained shall prejudice the rights of individuals having legal title, and who may be under the disabilities of infancy, coverture, lunacy, or beyond the limits of the United States, until three years after such disabilities shall be removed.

Rights of persons under disabilities, &c.

Ib., § 9.

These provisions to be observed where persons die without heirs, &c.

Ib., 49, § 12. 4 McC., 452; 7 Rich., 87.

SEC. 14. Every part of this Chapter, and the mode therein prescribed for recovering and appropriating real and personal property escheated to this State, shall be pursued and observed where any person shall hereafter die without heir, or become divested thereof by operation of law, without leaving any legal representative.

Estates of felons descend to their representatives.

Ib, § 13.

SEC. 15. No property shall be vested in the State, or any inquisition had by the escheator, where any person or persons shall have committed or may commit any felony against the State; but the said property shall descend to, and be vested in, the representatives of such person or persons.

Not to contravene any treaty, &c., between U. S. and foreign powers.

Ib, § 15.

SEC. 16. Nothing in this Chapter contained shall be construed to extend to contravene any treaty or agreement that is or may be entered into between the United States of America and any foreign prince, State or potentate, on the subject of descents and inheritances.

Escheators.

Appointment of escheators; term of office; bond, &c.; no member of Legislature to be.

1787, V, 46, § 1; 49, § 16; 1834, VI, 508, § 1.

SEC. 17. Escheators shall be appointed by joint resolution of the Senate and House of Representatives, and commissioned by the Governor, or Commander-in-Chief, for the time being, for the Counties of this State. They shall continue in office four years, and until their successors are appointed. Each Escheator shall execute his office in proper person, and not by deputy, and give bond with three good and sufficient sureties, to be approved by the County Commissioners, (which shall be duly recorded in the Secretary of State's office,) in the penal sum of two thousand dollars, in the form prescribed by Section 4, Chapter XXVIII, of this Act: *Provided, however,* That no member of either branch of the Legislature shall be capable of holding or exercising the office of Escheator.

Oath.

1787, V, 46, § 1.

SEC. 18. Such Escheator shall take the oath of office prescribed by the Constitution, and also the following oath, to be administered by the Governor, or any one of the Judges of the Court of Common Pleas, at the time of taking the said bond, to wit: "I, A B, do solemnly swear that I will well and faithfully execute the office of Escheator for the County of —, and diligent inquest make for all property which has escheated or shall escheat to the State, within my jurisdiction, according to the true intent and meaning of the statutes in that case made and provided: So help me God."

Certain corporations may appoint escheators;

*SEC. 19. In all cases wherein the State has heretofore or shall hereafter relinquish or cede to any body corporate or politic any part or portion of property which has or may hereafter revert to the State as

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*NOTE. For information as to the relinquishment by the State to corporations of the right to escheat in several of the Counties of the State, see the several Acts, &c., relative to corporations

escheated property, the said corporations respectively shall have full power and authority, in relation to the property so ceded, to nominate and appoint escheators, who, on giving bond in the sum required in and by the seventeenth Section of this Chapter, and taking the oaths herein prescribed, shall be commissioned as escheators (with limited power and authority, as aforesaid,) by the Governor and Commander-in-Chief for the time being; and such escheators shall execute their office in proper person, and not by deputy, and be vested with all the powers and authority with which escheators are invested: *Provided*, That the City Council of Charleston be authorized, as escheators, to appoint a deputy escheator.

City Council of Charleston may appoint Deputy Escheator
1834, VI, 508, § 1; 1805, V, 507; VII, 122, § 2.

SEC. 20. No escheator shall, directly or indirectly, either by himself or any person whomsoever, purchase, or be concerned with any person or persons in purchasing, any escheated lands, without being subject and liable to the payment of five thousand dollars; to be sued for and recovered in any Court of record, one-half for the benefit of the informer who shall sue for and recover the same, and the other half to be applied to the use of the State; and the said escheator shall also be rendered incapable of holding or exercising any office of trust or emolument therein.

Escheators not to purchase escheated estates.
Penalty.
1787, V, 49, § 17.

SEC. 21. Every escheator shall, as a compensation for his trouble, cost and charges in the discharge of his duty, be entitled to receive the commission of two and a half per cent. out of all moneys which, in virtue of this Chapter, shall be paid by him into the Treasury; and where any person or persons shall appear and make title to lands or personal estate, after office found by the jury, the Court shall have power to assess such reasonable costs and charges as the escheator has sustained in promoting the claim of the State, except in cases where he has already received his commissions.

Commissions of Escheators.
Ib., § 10.

SEC. 22. If any escheator shall fail to do his duty, as herein directed, on behalf of the State, and any loss or damage shall accrue to the State by his misconduct and fraudulent practices, he shall be responsible for all such loss or damage; and the Court of Common Pleas shall have power and authority to order a prosecution in the name of the State; and the jury shall try the fact, and assess the damages and costs; and, upon conviction, such escheator or escheators shall be incapable forever thereafter from holding any place of trust or profit within this State.

Penalty for neglect.
Ib., § 11.

TITLE IV.

OF CERTAIN WRITS AND PROCEEDINGS IN SPECIAL CASES.

CHAPTER CXVIII. *Of Habeas Corpus.*
CXIX. *Of Prohibition and Mandamus.*
CXX *Of Chattel Mortgages and Liens.*
CXXI. *Of Certain Provisions for Special Cases.*

CHAPTER CXVIII.

OF HABEAS CORPUS.

SEC.
1. Persons entitled to benefit of this Chapter.
2. Persons committed for treason or felony shall be indicted the next term or let to bail, &c.
3. If not asked for two terms, &c.
4. Judges to grant writs, &c
5. Writ to be directed to whom.
6. Service of writ.
7. Prisoners to be brought upon payment of charges, &c; proviso.
8. Time within which prisoner must be brought before Court.
9. Proceedings upon hearing of the return.
10. Notice to be given to Attorney General, &c.
11. Granting of writ during session of Court
12. After adjournment.
13. Persons discharged not to be re-arrested, &c
14. Two Trial Justices to grant writs of *Habeas Corpus.*
15. Penalty on officers neglecting their duty.
16. Penalties, how recovered.
17. Persons not removed from one prison to another without cause.
18. Penalty for signing warrants, &c.
19. Appeals allowed.

Persons entitled to benefit of this Chapter.

31 Ch. 2, c. 2; I, 118, 127, 22 3 and 21; 1829, 22, 76. Con., Art. 1, § 17. Amended by Com'rs.

SECTION 1. If any person or persons shall be or stand committed or detained for any crime, unless for felony (the punishment of which is death) or treason plainly expressed in the warrant of commitment, or, unless charged as accessory before the fact, to treason or felony, (the punishment of which felony is death,) or with suspicion thereof, or unless charged with suspicion of treason or felony, (which felony is punishable with death,) which shall be plainly expressed in the warrant of commitment, they shall be entitled to the writ of *habeas corpus.*

Persons committed for treason or felony, shall be indicted the next term, or let to bail, &c.

Ib., 119, § 7. 1 Vent., 46; Dudley, 295; 5 Rich., 255; 1 McC., 563; 2 Bay, 563; 3 Brev., 175

SEC. 2. If any person committed for treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open Court, the first week of the term, or to be brought to his trial, shall not be indicted some time in the next term after such commitment, it shall and may be lawful to and for the Judge of the Circuit Court, and he is hereby required, upon motion made in open Court the last day of the term, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail, unless it appear to him, upon oath made, that the witnesses for the State could not be produced the same term; and if any person committed as aforesaid, upon his prayer or petition in open Court the first week of the term, to be brought to his trial, shall not be indicted and tried the second term after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

SEC. 3. If any person shall have willfully neglected by the space of two whole terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such person, so willfully neglecting, shall not have any *habeas corpus* to be granted in vacation time, in pursuance of this Chapter.

If not asked for two terms, &c.
Ib., § 4.

SEC. 4. Any of the Judges of this State in vacation time and out of term, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise, upon oath made that such copy or copies were denied to be given by the person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized and required, upon request, made in writing, by such person or persons as are committed, as aforesaid, or any on his, her, or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant a writ of *habeas corpus*, under the seal of such Court, whereof he shall be one of the Judges.

Judges to grant writs, &c.
Ib. 118, § 3. Dudley, 295, 3 Brev., 517; 2 Bail., 466; 4 McC., 233; 2 Hill, 365.

SEC. 5. Such writ shall be directed to the officer or officers in whose custody the party so committed or detained shall be, and shall be returnable *immediately*, before the Judge issuing the same.

Writ to be directed to whom.
Ib.

SEC. 6. The said writ shall be served upon the said officer, or left at the jail or prison with any of the under-officers, under-keepers, or deputy of the said officers or keepers.

Service of writ.
Ib., 117, § 2.

SEC. 7. The said officer or officers, his or their under-officers, under-keepers or deputies, shall, within three days after the service thereof, upon payment or tender of the charges of bringing the said prisoner, (to be ascertained by the Judge or Court that awarded the same, and endorsed upon the said writ,) not exceeding ten cents per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the Court or Judge to which he shall be brought, and that he will not make any escape by the way, make return of such writ, and bring or cause to be brought the body of the party so committed or restrained, unto or before the Judge or Court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then certify the true causes of his detainer or imprisonment: *Provided, however*, That if any prisoner be not able to pay the said charges, the same shall be paid by the County wherein he is confined.

Prisoner to be brought up on payment of charges, &c.
Ib.; 1870, XIV, 400, § 8. Dudley, 295; Rice, 300; 1 McM., 456.

SEC. 8. If the place of imprisonment of the said party be beyond the distance of twenty miles from the place where such Court is held, and not above one hundred miles, he shall be brought before the Court, or the person or persons before whom the writ is returnable, within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days after the delivery of such writ, and not longer.

Time within which prisoner must be brought before Court.
I, 117, § 2.

Proceedings upon hearing of the return.
Ib., 118, § 3.
Amended by Com'rs.

SEC. 9. If, upon a hearing, the party shall be entitled to his discharge, then the Judge before whom he is brought shall, within two days after the party shall be brought before him, discharge the said prisoner from his imprisonment, taking his recognizance, with one or more surety or sureties, in any sum, according to his discretion, having regard to the nature of the offence, for his appearance in the Court of General Sessions, the term following, for such County where the offence was committed, or in the Court of such other County where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said Court where such appearance is to be made; but, if no legal cause be shown for the imprisonment or restraint, the prisoner shall be discharged therefrom.

Notice to be given to Attorney General, &c.
New.
Suggested by Com'rs.

SEC. 10. When it appears, from the return of the writ or otherwise, that the party is imprisoned on a criminal accusation, he shall not be discharged until sufficient notice has been given to the Attorney General or Circuit Solicitor, or other attorney acting for the State, that he may appearand object to such discharge, if he thinks fit.

Granting of writ during session of Court.
Ib., 122, § 18.

SEC. 11. During a term of the Circuit Court for that County where any prisoner is detained, no person shall be removed from the common jail upon any writ of *habeas corpus* granted in pursuance of this Chapter, but, upon any such writ, shall be brought before the Circuit Judge, in open Court, who is thereupon to do what to justice shall appertain.

After adjournment.
Ib., § 19.

SEC. 12. After the Circuit Court adjourns, any person or persons detained, may have a writ of *habeas corpus*, according to the direction and intention of this Chapter.

Person discharged not to be re-arrested, &c.
Ib., 119, § 6.
2 Brev., 338.

SEC. 13. No person who shall be delivered or set at large upon any writ of *habeas corpus* shall, at any time, be again imprisoned or committed for the same offence by any person or persons whatsoever, other than by the legal order and process of such Court wherein he shall be bound by recognizance to appear, or other Court having jurisdiction of the cause; and if any other person or persons shall knowingly, contrary to this Chapter, re-commit or imprison, or knowingly procure or cause to be re-committed or imprisoned, for the same offence, or pretended offence, any person delivered or set at large, as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved, the sum of two thousand five hundred dollars; any colorable pretence or variation in the warrant or warrants of commitment, notwithstanding, to be recovered as aforesaid.

Two Trial Justices to grant writs of *habeas corpus*.
1712, II, 100, § 1; 1839, XI, 23, § 9.
2 Bail., 252.

SEC. 14. Any two Trial Justices are authorized and required to grant the writ of *habeas corpus* as fully, effectually and lawfully as may any Judge of the Court of Common Pleas and General Sessions or Justice of the Supreme Court of this State.

SEC. 15. Every person whatsoever to whom any power is given, either judicial or ministerial, by this Chapter, and which by virtue hereof he is required and commanded to do, who shall willfully neglect, refuse or omit to do the same, when the same shall be legally requested and demanded, according to the directions herein, and when the person or persons so requesting and demanding the same are legally entitled to request or demand by the provisions of this Chapter, then and in such case such person, whether magistrate or officer, willfully so refusing, neglecting or omitting what this Chapter requires and commands, for each such willful neglect, refusal or omission, shall forfeit the sum of five hundred (500) dollars and shall be thereafter incapable of holding or executing his office.

Penalty on officers neglecting their duty.

Ib.; I, 119, § 5; 1712, II, 400, § ... Amended by Com'rs.

SEC. 16. The said penalties may be recovered by the prisoner or party grieved, his executors and administrators, against such offender, his executors or administrators, by action in any Court of competent jurisdictinn, wherein no protection, privilege, injunction or stay of prosecution shall be admitted or allowed.

Penalties, how recovered.

I, 119, § 5.

SEC. 17. If any person or persons, citizens of this State, shall be committed to any prison, or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, the said person shall not be removed from the said prison and custody, into the custody of any officer or officers unless it be by *habeas corpus* or some other legal writ; or where the prisoner is delivered to the Constable or other inferior officer, to carry such prisoner to some common jail; or where any person is sent, according to law, to any common work house or house of correction; or where the prisoner is removed from one place or prison to another within the same County, in order to his or her trial or discharge in due course of law; or in case of sudden fire or infection, or other necessity.

Persons not to be removed from one prison to another without cause

Ib., 120, § 9.

SEC. 18. If any person or persons shall, after such commitment aforesaid, make out and sign or countersign any warrant or warrants for such removal aforesaid, contrary to this Chapter, as well he that makes or signs, or countersigns such warrant or warrants, as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures mentioned in Sections 13 and 15 of this Chapter.

Penalty for signing warrant, &c.

Ib.

SEC. 19. An appeal from all final decisions rendered on applications for writs of *habeas corpus* shall be allowed as is provided by law in civil actions.

Appeals allowed.

New. Suggested by Com'rs.

CHAPTER CXIX.

Of Prohibition and Mandamus.

Sec.
1. Judges of Court of Common Pleas may grant writs of prohibition and *mandamus*.
2. Returns to be made to the first writ. Court may allow time to return a *mandamus*.
3. When return is made, the prosecutor may plead, &c.
4. Place of trial, damages and costs
5. Not liable in other actions, if damages are recovered, &c.

Judges of Court of Common Pleas may grant writs of.

1818, VII, 321. Con., Art 4, § 15. Code of Procedure, § 475. 3 McC., 175; 1 S. C. R., 46.

Section 1. That the Judges of the Court of Common Pleas shall have power, at their Chambers, to grant writs of prohibition and *mandamus*, in the same manner, in every respect, as if the Court were actually sitting; and the parties, respectively, shall have the same right of appeal to the Supreme Court as if the decision were made in open Court.

Return to be made to the first writ.

9 Ann, c. 20; 1712, II, 568, § 1; 570, § 6 3 Brev., 264.

Sec. 2. Where any writ of *mandamus* shall issue out of any of the Courts of this State, such person or persons as are required to make a return to such writ of *mandamus*, shall make his or their return to the first writ of *mandamus*: *Provided*, That it shall and may be lawful to and for the said Courts, or the Judges thereof, to allow to such person or persons, respectively, to whom any writ of *mandamus* shall be directed, such convenient time to make a return, plead, reply, rejoin or demur, as to them shall seem just and reasonable.

When return is made, the prosecutor may plead, &c.

Ib., 569, § 2.

Sec. 3. As often as in any of the cases aforesaid any writ of *mandamus* shall issue out of any of the said Courts, and a return shall be made thereto, it shall and may be lawful to and for the person or persons suing or prosecuting such writ of *mandamus* to plead to or traverse all or any the material facts contained within the said return; to which the person or persons making such return shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein as may be necessary for the determination thereof.

Place of trial; damages and costs.

Ib.

Sec. 4. If any issue shall be joined on such proceedings, the person or persons suing such writ shall and may try the same in such place as a civil action should or might have been tried; and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them upon a demurrer, or by default, or for want of a replication or other pleading, he or they shall recover his or their damages and costs in such manner as he or they might have done in a civil action; and a peremptory writ of *mandamus* shall be granted without delay for him or them for whom judgment shall be given, as might have been if such return had been adjudged insufficient; and in case judgment shall be given for the person or persons making such return to such writ, he or they shall recover his or their costs of suit.

Not liable in other actions if damages are recovered, &c.

Ib.

Sec. 5. If any damages shall be recovered by virtue of this Chapter against any such person or persons making return to such writ, as aforesaid, he or they shall not be liable to be sued in any other action or suit, for making such return.

CHAPTER CXX.

Of Chattels, Mortgages and Liens.

Sec.
1. Mortgages of personal property to be recorded within sixty days; place of record in Richland County.
2. Priority of mortgages.
3. Mortgages registered may be redeemed by second mortgagees.
4. Equity of redemption lost, &c.
5. Time for redemption of goods or chattels sold by way of mortgage.
6. Verbal agreements, reserving interest in personal property when possession is parted with, void.

Of Liens on Buildings and Lands.

7. Party furnishing labor and materials to have lien on buildings &c.
8. Lien not to attach without notice.
9. Not of force against existing mortgage.
10. Not to attach if owner of building, &c., gives notice.
11. Dissolved unless party file statement of account, &c., in Clerk's office in thirty days; record.
12. By inaccuracy of statement, &c.
13. Lien dissolved if not begun in ninety days.
14. How enforced.
15. Enforced before Trial Justice's Court if less than one hundred dollars.
16. Petition inserted in summons, &c.
17. To contain brief statement of contract, &c.
18. Amendments.
19. Any number who have labored on same building may join in petition.
20. Notice to owner and other creditors.
21. To absent parties.
22. Further notice.
23. Claims may be proved and contested.
24. Jury to try facts.
25. Claims not payable allowed with rebate of interest.
26. Claims for part performance allowed in certain cases.
27. Sale of premises if lien be established.
28. Part may be sold if sufficient.
29. Notice of sale.
30. Right of redemption.
31. Distribution of proceeds of sale.
32. Proceeds may be brought into Court and successive distributions made.
33. Distribution of surplus.
34. Prior attaching creditor preferred; proportion of proceeds to be held.
35. Such proportion may be applied to satisfy execution.
36. Subsequent attachment to be satisfied after lien.
37. Attachments intervening between two liens.
38. Rights of attaching creditors, &c., between themselves.
39. If debtor's estate be less than fee simple, &c., lien to bind his interest.
40. Lien may be enforced against heirs or assigns.
41. Executors, &c., may enforce creditor's lien.
42. Suits begun by one creditor may be prosecuted by another.
43. If suit be begun before right of action accrues, another creditor may prosecute; costs.
44. Costs in other cases.
45. Civil action not barred.
46. Discharge of lien, how executed.

Liens on Ships and Vessels.

47. Liens on ships and vessels for labor performed and materials furnished.
48. Lien to be dissolved unless sworn statement of demand, &c., is filed for record.
49. If ship is built in two places, &c., inaccuracy of description, &c., not to effect proceedings.
50. Lien, how enforced; filing of petitions, &c.
51. Petition to contain what.
52. Amendments.
53. Several claimants may join in same petition.
54. In such cases claims to be marshalled and proceeds distributed; if proceeds be insufficient liens to be satisfied ratably.

Liens on Crops.

55. Persons making advances to planters, &c., to have preferred lien on crop. Agreement to be recorded within thirty days.
56. Proceedings in case attempt be made to defeat lien; powers given Clerk and Sheriff.
57. Laborers to have prior lien on crop; how recovered.

Mortgages of personal property to be recorded within sixty days.

Place of record in Richland County.

1843, XI, 256, § 2; 1 69, XIV, 307. 3 Strob., 411; Bail Eq., 4 2; 13 Rich. Eq., 222.

SECTION 1. That no mortgage or other instrument of writing in the nature of a mortgage of personal property shall be valid so as to affect the rights of subsequent creditors or purchasers for valuable consideration, without notice, unless the same shall be recorded in the office of the Register of Mesne Conveyances for the County wherein the mortgagor resides, if he resides within the State, and if he resides without the State, then where the property mortgaged is located at the time the mortgage is executed, within sixty days: *Provided*, That, in the County of Richland, a mortgage of personal property shall be recorded in the office of the Secretary of State only, pursuant to the provisions of this Section.

Priority of mortgages.

1698, II. 1 7, § 1. Rice Eq., 300; Spear Eq., 439; 6 Rich. Eq., 302.

SEC. 2. The mortgage of goods or chattels which shall be first recorded, as provided by the foregoing Section, shall be taken, deemed, adjudged, allowed of and held to be, the first mortgage, and good, firm, substantial and lawful in all Courts of judicature within this State.

Mortgages registered may be redeemed by second mortgagees.
Ib., § 2.

SEC. 3. If there be more than one mortgage at the same time, by any person or persons to any person or persons, of the same goods and chattels, the several mortgagees which have not registered or recorded their mortgages, their heirs, executors, administrators or assigns shall have power to redeem any former mortgage or mortgages registered, upon payment of the principal debt, interest and cost of suit, to prior mortgagee or mortgagees, their heirs, executors, administrators or assigns.

Equity of redemption lost, &c
Ib.

SEC. 4. Every person or persons who shall mortgage the same goods or chattels a second time, a former mortgage being in force and not discharged, shall have no power or liberty of redemption in equity or otherwise.

Time for redemption of goods or chattels sold by way of mortgage.
1712, II, 587, § 15. 1 Strob. Eq., 323; 9 Rich Eq., 339.

SEC. 5. In all bills of sale of any plate, gold and silver, or goods and chattels whatsoever, by way of mortgage, with right of redemption upon performance of the proviso in the said bill of sale, where the plate, gold and silver, or goods and chattels, are actually delivered unto the person to whom such bill of sale is made, and are in his actual possession, (and not a delivery or seizin in form of law only,) and shall continue in the same for the space of two years after the breach of the proviso in the said bill of sale, without redemption thereof, the said goods or chattels so sold and delivered and possessed as aforesaid, though with right or equity of redemption, are hereby declared to be vested in the said person or persons to whom such bill of sale was made, and their executors, administrators and assigns, to have and to hold to them, their executors, administrators and assigns, as their own proper goods and chattels forever; excepting such person or persons having such right or equity of redemption, be beyond the seas, or otherwise out of the limits of this State, all which persons shall have saved to them their equity of redemption, so as they prosecute the same within three years after the breach of the proviso of the bill of sale, and at no time thereafter.

Verbal agreements, reserving interest in personal property when possession is parted with, void.
1843, XI, 256, § 3.

SEC. 6. Every verbal agreement between the vendor and vendee of personal property, whereby the vendor who has parted with the possession thereof to the vendee shall reserve to himself any interest in the same, shall be null and void as to subsequent creditors or purchasers for valuable consideration without notice.

Of Liens on Buildings and Lands.

Party furnishing labor and materials to have lien on building, &c.
1869 XIV, 220, § 1; 1876, VI, 32.

SEC. 7. Any person to whom a debt is due for labor performed or furnished, or for materials furnished, and actually used in the erection, alteration or repair of any building or structure upon any real estate, by virtue of an agreement with, or by consent of, the owner of such building or structure, or any person having authority from, or rightfully acting for, such owner, in procuring or furnishing such labor or materials, shall have a lien upon such building or structure, and upon the interest of the owner thereof in the lot of land upon which the same is situated, to secure the payment of the debt so due to him, and the costs which may arise in enforcing such lien under this Chapter, except as is provided in the following Sections.

SEC. 8. Such lien for materials furnished shall not attach, unless the person furnishing the same, before so doing, gives notice to the owner of the property to be affected by the lien, if such owner is not the purchaser, that he intends to claim such lien.

Lien not to attach without notice. Ib., § 2.

SEC. 9. Such lien shall not avail or be of force against any mortgage actually existing and duly recorded prior to the date of the contract under which the lien is claimed.

Not of force against existing mortgage. Ib., § 3.

SEC. 10. The owner of any such building or structure in process of erection, or being altered or repaired, other than the party by whom or in whose behalf a contract for labor or materials has been made, may prevent the attaching of any lien for labor thereon not at the time performed, or materials not then furnished, by giving notice, in writing, to the person performing or furnishing such labor, or furnishing such materials, that he will not be responsible therefor.

Not to attach if owner of building, &c., gives notice. Ib., § 4

SEC. 11. Such lien shall be dissolved, unless the person desiring to avail himself thereof, within thirty days after he ceases to labor on, or furnish labor or materials for, such building or structure, files in the office of the Clerk of the Court of Common Pleas of the County in which the same is situated a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate for identification, with the name of the owner or owners of the property, if known, which certificate shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and shall be recorded in a book kept for the purpose by the Clerk, who shall be entitled to the same fees therefor as for recording mortgages of equal length.

Dissolved unless party file statement of account, &c., in Clerk's office in thirty days; record. Ib., § 5.

SEC. 12. No inaccuracy in such statement, relating to the property to be covered by the lien, if the property can be reasonably recognized, or in stating the amount due for labor or materials, shall invalidate the proceedings, unless it appears that the person filing the certificate has wilfully and knowingly claimed more than is his due.

Not to be invalidated by inaccuracy of statement, &c. Ib., § 6.

SEC. 13. Unless a suit for enforcing the lien is commenced within ninety days after the person desiring to avail himself thereof ceases to labor on, or furnish labor or material for, such building or structures, the lien shall be dissolved.

Lien dissolved if suit not begun in 90 days. Ib., § 7.

SEC. 14. The lien may be enforced by petition to the Court of Common Pleas in the County where the building or structure is situated. The petition may be filed in term, or in the Clerk's office in vacation, and the date of the filing shall be deemed the commencement of the suit.

How enforced. Ib., § 8.

Enforced before Trial-Justice's Court if less than $100.
Ib., 221, § 9.

SEC. 15. When the amount of the claim does not exceed one hundred dollars, the lien may be enforced by a petition to a Trial Justice; and such Trial Justice shall have like power and authority within his jurisdiction as herein conferred upon the Court of Common Pleas, with like rights of appeal to the parties as exist in other civil cases.

Petition inserted in summons, &c.
Ib., § 10.

SEC. 16. The petition may be inserted in a summons, and be served, returned and entered as other civil cases.

To contain brief statement of contract, &c.
Ib., § 11.

SEC. 17. Whether filed as a petition, or inserted in such summons, the petition shall contain a brief statement of the contract on which it is founded, and of the amount due thereon, with a description of the premises subject to the lien, and all other material facts and circumstances; and shall pray that the premises may be sold, and the proceeds of the sale be applied to the discharge of the demand.

Amendments.
Ib., § 12.

SEC. 18. The Court may at any time allow either party to amend his pleadings as in other civil actions.

Any number who have labored on same building may join in petition.
Ib., § 13.

SEC. 19. Any number of persons who have actually performed labor, or furnished labor or materials on one or more buildings or structures upon different lots of land, where the labor was performed for the same owner, contractor, or other person, may join in the same petition for their respective liens, and the same proceedings shall be had in regard to the rights of each petitioner, and the respondent may defend as to each petitioner, in the same manner as if he had severally petitioned for his individual lien.

Notice to owner and other creditors.
Ib., § 14.

SEC. 20. The Court in which the petition is entered shall order notice to be given to the owner of the building or structure, that he may appear and answer thereto at a certain day in the same term, or at the next term, by serving him with an attested copy of the petition, with the order of the Court thereon, fourteen days at least before the time assigned for the hearing; and the Court shall also order notice of the filing of the petition to be given to all other creditors who have a lien of the same kind upon the same estate, by serving them with a copy of the last mentioned order in like manner.

To absent parties.
Ib., § 15

SEC. 21. If it appears to the Court that any of the parties entitled to notice are absent, or that they cannot probably be found to be served with the notice, the Court may, instead of the personal notice before mentioned, or in addition thereto, order notice to all persons interested, by publishing in some newspaper the substance of the petition, with the order of the Court thereon, assigning the time and place for a hearing, or may order such other notice to be given as may, under the circumstances of the case, be considered most proper and effectual.

Further notice.
Ib., § 16.

SEC. 22. If, at the time assigned for the hearing, it appears to the Court that any of the persons interested had not had a sufficient notice of the suit, the Court may order further notice to them, in such manner as may be considered most proper and effectual.

Claims may be proved and contested.
Ib., § 17.

SEC. 23. At the time assigned for the hearing, or within such further time as the Court allows for that purpose, every creditor having a lien of the kind before mentioned upon the same property, may appear and prove his claim; and the owner and each of the creditors may contest the several claims of every other creditor, and the Court shall hear and determine them in a summary manner, either with or without jury, as the case may require.

Jury to try facts.
Ib., 222, § 18.

SEC. 24. Every material question of fact arising in the case shall be submitted to a jury, if required by either party, or thought proper by the Court; and the trial shall be had upon a question stated, or an issue framed, or otherwise, as the Court may order. A jury shall be had before a Trial Justice only as in other civil cases.

Claims not payable allowed with rebate of interest.
Ib., § 19.

SEC. 25. The Court shall ascertain and determine the amount due to each creditor who has a lien of the kind before mentioned upon the property in question; and every such claim due, absolutely and without any condition, although not then payable, shall be allowed, with a rebate of interest to the time when it would become payable.

Claims for part performance allowed in certain cases.
Ib., § 20.

SEC. 26. When the owner fails to perform his part of the contract, and by reason thereof the other party, without his own default, is prevented from completely performing his part, he shall be entitled to a reasonable compensation for as much as he has performed, in proportion to the price stipulated for the whole, and the Court shall adjust his claim accordingly.

Sale of premises if lien be established.
Ib., § 21.

SEC. 27. If the lien is established in favor of any of the creditors whose claims are presented, the Court shall order a sale of the property to be made by any officer authorized to serve civil process between the same parties.

Part may be sold if sufficient.
Ib., § 22.

SEC. 28. If part of the property can be separated from the residue, and sold, without damage to the whole, and if the value thereof is sufficient to satisfy all debts proved in the case, the Court may order a sale of that part, if it appears to be most for the interest of all parties concerned.

Notice of sale.
Ib., § 23.

SEC. 29. The officer who makes the sale shall give notice of the time and place, in the manner prescribed in relation to the sale on execution of a right of redeeming mortgaged lands, unless the Court orders a different notice to be given.

Right of redemption.
Ib., § 24.

SEC. 30. Any interest in real estate so sold may be redeemed in the manner provided in the case of a sale on execution of the right of redeeming mortgaged lands.

Distribution of proceeds of sale. Ib., § 5.

SEC. 31. If all the claims against the property covered by the lien are ascertained at the time of ordering the sale, the Court may order the officer to pay over and distribute the proceeds of the sale, after deducting all lawful charges and expenses, to and among the several creditors, to the amount of their respective debts, if there is sufficient therefor; and if there is not sufficient, then to divide and distribute the same among the creditors in proportion to the amount due to each of them.

Proceeds may be brought into Court and successive distributions made. Ib., § 23.

SEC. 32. If all the claims are not ascertained when the sale is ordered, or if, for any other reason, the Court finds it necessary or proper to postpone the order of distribution, it may direct the officer to bring the proceeds of the sale into Court, there to be disposed of according to the decree of the Court; and if, by reason of the claims of attaching creditors, or for any other cause, the whole cannot be conveniently distributed at once, the Court may make two or more successive orders of distribution, as the circumstances may require.

Disposition of surplus. Ib., § 27.

SEC. 33. If there is any surplus of the proceeds of the sale, after making all the payments before mentioned, it shall be forthwith paid over to the owner of the property; but such surplus, before it is so paid over, shall be liable to be attached or taken on execution in like manner as if it proceeded from a sale made by the officer on an execution.

Prior attaching creditor preferred; proportion of proceeds to be held. Ib., §§ 28, 28.

SEC. 34. If the interest of the owner in the building, structure or land is under attachment at the time of filing and recording the statement of the account, the attaching creditor shall be preferred to the extent of the value of the buildings and land as they were when the statement was recorded; and the Court shall ascertain, by a jury or otherwise, as the case may require, what proportion of the proceeds of the sale shall be held subject to the attachment, as derived from the value of the property when the statement was recorded.

Such proportion may be applied to satisfy execution. Ib., § 29.

SEC. 35. If the attaching creditor recovers judgment, he shall be entitled to receive on his execution the proportion of the proceeds held subject to his attachment, or as much thereof as may be necessary to satisfy his execution, and the residue of the proceeds shall be applied in the same manner as if there had been no such attachment.

Subsequent attachment to be satisfied after lien. Ib., § 30.

SEC. 36. If the interest of the owner of the property is attached after the recording of the statement, the proceeds, after discharging all prior liens and claims, shall be applied to satisfy the execution of such attaching creditor.

Attachment intervening between two liens. Ib., § 31.

SEC. 37. If an attachment is made after the recording of such statement, and if, after the attachment, another like statement is recorded, the creditor in the latter statement shall be entitled to be paid only out of the residue of the proceeds remaining, after paying all that is due on the demands, a statement of which is recorded before the attachment, and satisfying the attaching creditor.

Rights of attaching creditors, &c., between themselves.
Ib., § 32

SEC. 38. When there are several attaching creditors they shall, as between themselves, be entitled to be paid according to the order of their attachments; but when several creditors, who are entitled to the lien provided for in this Chapter, have equal rights, as between themselves, and the fund is insufficient to pay the whole, they shall share it equally, in proportion to their respective debts.

If debtor's estate be less than fee simple, &c., lien to bind his interest.
Ib., § 33.

SEC. 39. If the person for whom the work is done or materials are furnished has an estate for life, or any other estate less than a fee simple in the land, or if the property, at the time of recording the statement, is mortgaged, or under any other incumbrance, the lien before provided for shall bind his whole estate and interest therein in like manner as a mortgage would have done, and the creditor may cause the right of redemption, or whatever other right or estate the owner had in the property, to be sold and applied to the discharge of his debt, according to the provisions of this Chapter.

Lien may be enforced against heirs or assigns
Ib., § 34.

SEC. 40. If the person indebted dies or conveys away his estate or interest before the commencement of a suit on the contract, the suit may be commenced and prosecuted against his heirs or whoever holds the estate or interest which he had in the premises at the time the labor or materials were performed or furnished; or if a suit is commenced in his life time, it may be prosecuted against his executors, administrators, heirs or assigns in like manner as if the estate or interest had been mortgaged to secure the debt.

Executor, &c., may enforce creditor's lien.
Ib., § 35.

SEC. 41. If the creditor dies before the commencement of the suit, the suit may be commenced and prosecuted by his executors and administrators; or if commenced in his life time, it may be prosecuted by them as it might have been by the deceased, if living.

Suits begun by one creditor may be prosecuted by another.
Ib., § 36.

SEC. 42. If it appears in any stage of the proceedings that the suit was commenced by the petitioning creditor before his right of action accrued, or after it was barred, or if he become non-suit, or fails to establish his claims, suit may be prosecuted by any other creditor having such lien, in the same manner as if it had been originally commenced by him, if the circumstances of the case are such that he might then, or at any time after the commencement of the original suit, have commenced a like suit on his own claim.

If suit be begun before right of action accrues, another creditor may prosecute; costs.
Ib., 224, § 37.

SEC. 43. If the suit is commenced by the petitioning creditor before his right of action accrues, his claim may nevertheless be allowed, if the suit is carried on by any other creditor, as provided in the preceding Section; but shall not in any case be entitled to costs; and he may be required to pay the costs incurred by the debtor, or such part thereof as the Court may deem reasonable.

Costs in other respects.
Ib., § 38.

SEC. 44. The costs in all other respects shall be subject to the discretion of the Court, and shall be paid from the proceeds of the sale, or by any of the parties to the suit, as justice and equity require.

Civil action not barred.
Ib., 39.

SEC. 45. Nothing contained in this Chapter shall be construed to prevent a creditor in such contract from maintaining an action thereon in like manner as if he had no such lien for the security of his debt.

Discharge of lien; how executed.
Ib., § 40.

SEC. 46. When a debt secured by such lien is fully paid, the creditor, at the expense of the debtor, shall enter on the margin of the registry, where the statement is recorded, a discharge of his lien, or shall execute a release thereof, which may be recorded where the statement is recorded.

Liens on Ships and Vessels.

Liens on ships and vessels for labor performed and materials furnished.
1858, XII, 741; 1869, XIV, 224, § 42.

SEC. 47. When by virtue of a contract, expressed or implied, with the owners of a ship or vessel, or with the agents, contractors, or sub-contractors of such owners, or any of them, or with any person having been employed to construct, repair or launch such ship or vessel, or to assist them, money is due to any person for labor performed, materials used, or labor and materials furnished in the construction, launching, repairs of, or for constructing the launching-ways for, or for provisions, stores, or other articles furnished for or on account of such ship or vessel in this State, such person shall have a lien upon the ship or vessel, her tackle and furniture, to secure the payment of such debt; which lien shall be preferred to all others thereon, except mariner's wages, and shall continue until the debt is satisfied.

Lien to be dissolved unless sworn statement of demand, &c., is filed for record.
Ib., § 43.

SEC. 48. Such lien shall be dissolved, unless the person claiming the same filed, within four days from the time the ship or vessel departs from the port at which she was when the debt was contracted, in the office of the Clerk of the Court of Common Pleas of the County within which the ship or vessel was at the time the debt was contracted, a statement, subscribed and sworn to by himself, or by some person in his behalf, giving a just and true account of the demand claimed to be due to him, with all just credits; and also the name of the person with whom the contract was made, the name of the owner of the ship or vessel, if known, and the name of the ship or vessel, or a description thereof sufficient for identification; which statement shall be recorded by said Clerk of the Court of Common Pleas, in a book kept by him for that purpose, for which he shall receive the same fees as for recording other papers of equal length.

If ship is built in two places, &c; inaccuracy of description, &c., not to affect proceedings
Ib., 44.

SEC. 49. If the ship or vessel is partly constructed in one place and partly in another, either place shall be deemed the port at which she was when the debt was contracted, within the meaning of this Chapter; and no inaccuracy in the description of the ship or vessel, if she can be recognized thereby, or in stating the amount due for labor or materials, shall invalidate the proceedings, unless it appears that the person filing the certificate has knowingly and wilfully claimed more than his due.

Lien: how enforced; filing of petition, &c.
Ib., 25, 45
20 H., U. S. R., 393.

SEC. 50. Such lien may be enforced by petition to the Court of Common Pleas for the County where the vessel was at the time the debt was contracted, or in which she is at the time of instituting proceedings. The petition may be entered in Court, or filed in the Clerk's office in vacation,

or may be inserted in a summons, with an order of attachment, and served, returned and entered as other civil actions, and the subsequent proceedings for enforcing the lien shall, except as hereinafter provided, be as prescribed for enforcing liens on buildings and lands, so far as the same are applicable. At the time of entering or filing the petition, a process of attachment against such ship or vessel, her tackle, apparel and furniture, shall issue and continue in force, or may be dissolved like attachments in civil cases, but such dissolution shall not dissolve the lien.

Petition, to contain what. Ib., § 46.

SEC. 51. The petition shall contain a brief statement of the labor, materials, or work done or furnished, or the stores, provisions or other articles furnished, and the amount due therefor, with a description of the ship or vessel subject to the lien, and all other material facts and circumstances, and shall pray that the ship or vessel may be sold and the proceeds of the sale applied to the discharge of the demand.

Amendments. Ib., § 47.

SEC. 52. The Court may at any time allow either party to amend his pleadings as in other civil actions.

Several claimants may join in same petition. Ib., § 48.

SEC. 53. Any number of persons having such liens upon the same ship or vessel may join in the same petition to enforce the same; and the same proceedings shall be had in regard to the respective rights of each petition, and the respondent may defend as to each petitioner, in the same manner as if they had severally petitioned for their individual liens.

In such cases claims to be marshaled and proceeds distributed; if proceeds be insufficient, liens to be satisfied ratably. Ib., § 49.

SEC. 54. When there is money due to more than one person holding a lien upon a ship or vessel under the provisions of this Chapter, all parties interested having been cited to appear and answer, the claims of all shall be marshaled, and the Court shall make such order or decree as may be necessary to prevent the enforcement of a double lien for the same labor, materials, stores, provisions or other articles, and to secure the just rights of all. And the proceeds arising from the sale of such ship or vessel, after deducting all proper costs and expenses, shall be distributed among the several claimants to the amount of their respective debts: *Provided*, That when such proceeds are insufficient to satisfy the liens of all those having liens for labor, they shall receive a per centage on their respective claims one-third greater, as near as may be, than those having liens for materials, stores or other articles.

Liens on Crops.

Persons making advances to planters, &c., to have preferred lien on crop. 1866, XIII, 380, § 1.

SEC. 55. If any person or persons shall make any advance or advances, either in money or supplies, to any person or persons who are engaged, or are about to engage, in the cultivation of the soil, the person or persons so making such advance or advances shall be entitled to a lien on the crop which may be made during the year upon the land, in the cultivation of which the advances so made have been expended, in preference of all other liens existing or otherwise, to the extent of such advance or advances: *Provided*, An agreement in writing shall be entered into before such advance is made, to this effect, in which shall be

Agreement to be recorded within thirty days

specified the amount to be advanced, or in which a limit shall be fixed beyond which the advances, if made from time to time during the year, shall not go, which agreement shall be recorded in the office of the Register of Mesne Conveyances for the County in which the person to whom the advances are made resides, within thirty days from its date.

Proceedings in case attempt be made to defeat lien; powers given Clerk and Sheriff.

Ib., [illegible]

SEC. 56. If any person making such advances shall make an affidavit before the Clerk of the Court of the County in which such crop is, that the person to whom such advances have been made is about to sell or dispose of his crops, or in any other way is about to defeat the lien hereinbefore provided for, accompanied with a statement of the amount then due, it shall be lawful for him to issue his warrant, directed to any of the Sheriffs of this State, requiring them to seize the said crop, and, after due notice, sell the same for cash, and pay over the net proceeds thereof, or so much thereof as may be necessary, in extinguishment of the amount then due: *Provided, however*, That if the person to whom such advances have been made shall, within thirty days after such sale has been made, give notice, in writing, to the Sheriff, accompanied with an affidavit to this effect: That the amount claimed is not justly due—that then it shall be the duty of the said Sheriff to hold the proceeds of such sale, subject to the decision of the Court, upon an issue which shall be made up and set down for trial at the next succeeding term of the Court of Common Pleas for the County in which the person to whom such advances have been made resides, in which the person making such advances shall be the actor.

Proviso.

Laborers to have prior lien on crop; how recovered.

1869, XIV, 228, § 3.

SEC. 57. Whenever laborers are working on shares of crop or crops, or for wages in money or other valuable consideration, they shall have a prior lien upon said crop or crops, in whosesoever hands it may be. Such portion of the crop or crops to them belonging, or such amount of money or other valuable consideration due, shall be recoverable by an action in any Court of competent jurisdiction.

CHAPTER CXXI.

OF CERTAIN PROVISIONS FOR SPECIAL CASES.

SEC.

Improvements by Tenants.

1. Tenants to be awarded full value of improvements in certain cases.
2. Value of improvements, how determined.
3. Proceedings to recover value of improvements.
4. Court to stay proceedings on entry of action.
5. Execution to issue against land recovered.
6. No recovery for mesne profits.
7. Foregoing provisions not applicable in certain cases.

Contracts by Minor Under-Graduates of Colleges and Educational Institutions.

8. Certain contracts by certain minors null and void.
9. Unlawful to issue process; judgment not to be confessed.

SEC.
10. Such unlawful judgments to be vacated.
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Proceedings Against Unincorporated Associations.

12. Name by which to be sued.
13. Service of process.
14. Liability under final process.

Payment for Injuries to Sheep.

15. Owners of dogs to pay for sheep killed.
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Miscellaneous Provisions.

17. Recovery of damages for imputing want of chastity to women.
18. Measure of damages upon covenant, &c.
19. Right of surety who pays debt of principal.
20. County Treasurers may enforce collection of taxes, &c., by distraint, &c.

Improvements by Tenants.

Tenants to be awarded full value of improvements in certain cases.
1870, XIV, 313, § 1.

SECTION 1. That after final judgment in an action to recover lands and tenements, in favor of the plaintiff, if the defendant has purchased the lands and tenements recovered in such action, or taken a lease thereof, or those under whom he holds has purchased a title to such lands and tenements, or taken a lease thereof, supposing at the time of such purchase such title to be good in fee, or such lease to convey and secure the title and interest therein expressed, such defendant shall be entitled to recover of the plaintiff in such action the full value of all improvements made upon such land by such defendant, or those under whom he claims, in the manner hereinafter provided.

Value of improvements; how determined.
Ib., § 2.

SEC. 2. The sum which such land shall be found, at the time of the rendition of such judgment, to be worth more, in consequence of improvements so made, than it would have been had no such improvements or betterments been made, shall be deemed to be the value of such improvements or betterments.

Proceedings to recover value of improvements.
Ib., 314, § 3.

SEC. 3. The defendant in such action shall, within forty-eight hours after such judgment, or during the term of the Court in which the same shall be rendered, file a complaint against such plaintiff for so much money as the lands and tenements are so made better, in the office of the Clerk of such Court, which shall be sufficient notice to the defendant in such complaint to appear and defend against the same, and all subsequent proceedings shall be had in accordance with the practice prescribed in the Code of Procedure.

Court to stay proceedings on entry of action.
Ib., § 4.

SEC. 4. The Court, on the entry of such action, shall stay all proceedings upon the judgment obtained in the prior action, until a final judgment shall be rendered in this action; and the lands and tenements so recovered shall be held to respond to any judgment which shall be rendered on such complaint, in the same manner and for the same time as if the same had been attached on mesne process.

Execution to issue against land recovered.
Ib., § 5.

SEC. 5. Execution on the judgment rendered in such action shall issue only against the lands and tenements recovered, as in Section 1 of this Chapter, and shall not, in any case, issue against the goods and chattels or other lands of the defendant.

No recovery for mesne profits.
Ib., § 6.

SEC. 6. The plaintiff, in an action for the recovery of lands and tenements, shall recover nothing for the mesne profits of the land, except on such improvements as were made by him or those under whom he claims.

Foregoing provisions not applicable in certain cases.
Ib., § 7.

SEC. 7. The foregoing provisions, relating to betterments, shall not extend to any person who has entered on land by virtue of any contract made with the legal owner of such land, unless it shall appear, on the trial of the action, that such owner has neglected to fulfill such contract on his part, in which case such person in possession shall be entitled to all the privileges hereinbefore provided for those who entered upon land under supposed title, and the same proceedings shall be had, and the land shall be held in the same manner as is hereinbefore provided.

Contracts by Minor Under-Graduates of Colleges and Educational Institutions.

Certain contracts by certain minors, null and void.
1853, XII, 296, § 1.

SEC. 8. That any contract or agreement whatsoever, express or implied, by any under-gradute of any of the colleges or institutions of education in this State, who shall be a minor, with any shop-keeper, upon the sale of any wines, ardent spirits, goods, wares or merchandise, or any article of trade, or with any keeper of a hotel, tavern, house of entertainment, or livery stable, shall be held and deemed utterly null and void, insomuch that no confirmation of the same by such student, after he may have attained the age of twenty-one years, shall render such contract or agreement of legal obligation.

Unlawful to issue process; judgment not to be confessed.
Ib., § 2.

SEC. 9. It shall not be lawful to issue any procees, either from a Trial Justice or from any Court of record in this State, against any such student, upon any such contract or agreement, as aforesaid, at any time; nor shall any confession of judgment upon the same be lawful or binding, or be allowed to be entered up.

Such unlawful judgments to be vacated.
Ib., § 3.

SEC. 10. In case any judgment shall be confessed, or obtained contrary to the prohibition hereinbefore expressed, the same shall be ordered to be vacated and annulled by any Judge of the Common Pleas, at Chambers or in open Court, upon any information that may satisfy him that the said judgment is in contravention of the intent of Sections 8 and 9 of this Chapter.

Not applicable to apothecaries.
Ib., § 4.

SEC. 11. The provisions of Sections 8, 9 and 10 of this Chapter shall not apply to any apothecary, so far as his dealings may concern the sale of his drugs and medicines.

Proceedings Against Unincorporated Associations.

Name by which to be sued.
1865, XIII, 315, § 2.

SEC. 12. That all unincorporated associations may be sued and proceeded against under the name and style by which they are usually known, without naming the individual members of the association.

Service of process.
Ib., § 1; 1863, XIII, 215, § 1.

SEC. 13. Process served on any agent of any unincorporated association doing business in this State, under the name and style by which it is usually known, shall be sufficient to make such association a party in any Court of record in the County in which such agent may be served.

SEC. 14. On judgment being obtained against such association under such process, final process may issue to recover satisfaction of such judgment, and any property of the said association, and the individual property of any copartner or member thereof, found in the State, shall be liable to judgment and execution for satisfaction of any such judgment.

Liability under final process.
Ib., § 2

Payments for Injuries to Sheep.

SEC. 15. That the owner of any dog, or person having in his care or keeping any dog, shall be liable to pay to the party injured, double the value of all sheep that may be killed or injured by such dog, to be recovered by action at the suit of the party injured, in any Court having competent jurisdiction.

Owners of dogs to pay for sheep killed.
1859, XII, 826, § 1.

SEC. 16. In all actions brought for the recovery of damages, under the provisions of the last preceding Section, the recovery of two dollars shall in all cases carry full costs.

Costs allowed.
Ib., § 2

Miscellaneous Provisions.

SEC. 17. If any person shall utter and publish, either by writing or verbally, any words of and concerning any female, imputing to her a want of chastity, the said person, so uttering and publishing said words, shall and may be liable for damages, in a civil action, brought by the said female of whom said words may be uttered and published, without proving any special damage; subject, nevertheless, to the rules of evidence at common law.

Recovery of damages for imputing want of chastity to women
1824, VI, 236, § 3.
2 Bail, 415; 10 Rich., 41.

SEC. 18. In any action or suit for reimbursement or damages, upon covenant or otherwise, the true measure of damages shall be the amount of the purchase money at the time of the alienation, with legal interest.

Measure of damages upon covenant, &c.
1824, VI, 238, § 4.
2 N. & McC., 189, *cc* Cheves, 127, 1 McM., 37.

SEC. 19. The payment of a debt secured by judgment, by a surety, shall not operate as a satisfaction of such judgment against the principal debtor; but by such payment the said surety shall be entitled to all the rights and privileges of the plaintiff in said judgment.

Right of surety who pays debt of principal.
1849, XI, 556.
7 Rich., 399

SEC. 20. Any County Treasurer may enforce the collection of any tax or penalty assessed under the provisions of Chapters 12 and 13 of this Code of Procedure at any time after the same becomes due, by distraint, attachment, or other legal proceedings, instituted in his name as such Treasurer; and in case of his death or retirement from office before the collection of such taxes or penalties, his successor in office, or subsequent Treasurer, may be made a party to such proceedings, and prosecute the same to final judgment and execution.

County Treasurers may enforce collection of taxes, &c., by distraint, &c.
1868, XIV, 38, § 35.

TITLE V.

CHAPTER CXXII.

1870, XIV, 123.

THE CODE OF PROCEDURE.

SEC.
1. Division of remedies.
2. Definition of an action.
3. Definition of a special proceeding.
4. Division of actions into civil and criminal.
5. Definition of a criminal action.
6. Definition of a civil action.
7. Civil and criminal remedies not merged in each other.
8. Division of the Code of Procedure.

Remedies.

SECTION 1. Remedies in the Courts of justice are divided into: 1. Actions; 2. Special proceedings.

Action.

SEC. 2. An action is an ordinary proceeding in a Court of justice, by which a party prosecutes another party for the enforcement or protection of a right, the redress or prevention of a wrong, or the punishment of a public offence.

Special proceeding.

SEC. 3. Every other remedy is a special proceeding.

Division of actions.

SEC. 4. Actions are of two kinds: 1. Civil; 2. Criminal.

Criminal action.

SEC. 5. A criminal action is prosecuted by the State, as a party, against a person charged with a public offence, for the punishment thereof.

Civil action.

SEC. 6. Every other is a civil action.

Remedies not merged.

SEC. 7. Where the violation of a right admits of both a civil and criminal remedy, the right to prosecute the one is not merged in the other.

Division of Code of Procedure.

SEC. 8. This Code of Procedure is divided into two parts: The first relates to Courts of Justice and their jurisdiction; the second relates to civil actions in the Courts of this State.

PART 1.—Of the Courts of Justice and their Jurisdiction.

TITLE 1.—OF COURTS OF JUSTICE.

CHAPTER 1.—*Their Designation.*

SEC.
9. The several Courts of this State.
10. Their jurisdiction generally.

The several Courts.

SEC. 9. The following are the Courts of Justice in this State:

1. The Court for Trial of Impeachments.
2. The Supreme Court.

3. Two Circuit Courts, to wit: (1.) A Court of Common Pleas; and (2.) A Court of General Sessions.
4. Probate Courts.
5. Courts of Justices of the Peace.
6. Courts of Trial Justices.
7. The City Court of Charleston.
8. Mayors' and Intendants' Courts.

SEC. 10. These Courts shall exercise the jurisdiction now vested in them respectively, except as otherwise prescribed by this Code of Procedure. Their jurisdiction generally.

TITLE 2.—SUPREME COURT.

SEC.
11. Its jurisdiction.
12. Power of Court.
13. Terms. Preference of causes.
14. Judgment; rehearing. Opinions.
15. Sheriffs to provide rooms, &c.
16. Courts, where held. Adjournment.

SEC. 11. The Supreme Court shall have exclusive jurisdiction to review, upon appeal: Jurisdiction.

1. Final judgments in actions commenced in the Courts of Common Pleas and General Sessions, brought there by original process or removed there from any inferior Court or jurisdiction; and, upon the appeal from such judgment, to review any intermediate order involving the merits and necessarily affecting the judgment. Of final judgment.

2. An order affecting a substantial right made in an action, when such order in effect determines the action, and prevents a judgment from which an appeal might be taken, or discontinues the action, and when such order grants or refuses a new trial; but no appeal to the Supreme Court from an order granting a new trial, on a case made or bill of exceptions, shall be effectual for any purpose, unless the notice of appeal contain an assent on the part of the appellant that, if the order be affirmed, judgment absolute shall be rendered against the appellant. Upon every appeal from an order granting a new trial, on a case made or on exceptions taken, if the Supreme Court shall determine that no error was committed in granting the new trial, they shall render judgment absolute upon the right of the appellant; and after the proceedings are remitted to the Court from which the appeal was taken, an assessment of damages or other proceedings, to render judgment effectual, may be then and there had in cases where such subsequent proceedings are requisite. Of order affecting a substantial right. Condition of appeal from order granting new trial.

3. A final order affecting a substantial right made in a special proceeding, or upon a summary application in an action after judgment, and upon such appeal to review any intermediate order involving the merits, and necessarily affecting the order appealed from. Final order affecting substantial right.

Power of Supreme Court.

SEC. 12. The Supreme Court may reverse, affirm or modify the judgment, decree or order appealed from, in whole or in part, and as to any or all of the parties; and its judgment shall be remitted to the Court below, to be enforced according to law.

Terms.

SEC. 13. The Supreme Court shall hold, annually, at the seat of government, two sessions, the one commencing on the fourth Tuesday of November, and the other the first Tuesday of April; and each of said terms shall be continued for so long a period as the public interest may require. Additional terms may be appointed and held at such times and places as the Court may direct, when the public interest requires it. The Court may, by general rules, provide what causes shall have a preference on the calendar. On a second and each subsequent appeal to the Supreme Court, or when an appeal has once been dismissed for defect or irregularity, the cause shall be placed upon the calendar as of the time of filing the first appeal, and may be noticed and put on the calendar for any succeeding term; and whenever, in any action or proceeding in which the State, or any State officer, or any Board of State officers, is or are sole plaintiff or defendant, an appeal has been, or shall be, brought up from any judgment or order for or against him or them, in any Court, such appeal shall have preference in the Supreme Court, and may be moved by either party out of the order on the calendar.

Preference of causes.

Judgments.

Rehearing.

Opinions.

SEC. 14. The concurrence of two Judges is necessary to pronounce a judgment. If two do not concur, the case must be reheard. But no more than two rehearings shall be had; and if, on the second rehearing, two Judges do not concur, the judgment shall be affirmed. When two of the Judges do not concur, and a rehearing of the case is ordered, the two Judges shall file the opinions read by them with the Reporter of the Court; but such opinions shall not be published. No person, other than the Judges of the Court, the Reporter of the Court, or the counsel or attorney of either of the parties to the action, shall have access to or a copy of the said opinions, but such counsel or attorney may have access to and a copy thereof.

Sheriff to provide rooms.

SEC. 15. If, at a term of the Supreme Court, proper and convenient room, both for the consultation of the Judges and the holding of the Court, with furniture, attendants, fuel, lights and stationery, suitable and sufficient for the transaction of its business, be not provided for in the place where by law the Court may be held, the Court may order the Sheriff of the County to make such provision, and the expenses incurred by him in carrying the order into effect shall be a County charge.

Courts, where held.

Adjournment

SEC. 16. The Supreme Court may be held in other buildings than those designated by law as places for holding Courts, and at a different place, in the same city or town, from that at which it is appointed to be held. Any one or more of the Judges may adjourn the Court with the like effect as if all were present.

TITLE 3.—CIRCUIT COURTS.

SEC.
17. Division of the State into Circuits
18. Time of holding Courts in First Circuit.
19. Time of holding Courts in Second Circuit.
20. Time of holding Courts in Third Circuit.
21. Time of holding Courts in Fourth Circuit.
22. Time of holding Courts in Fifth Circuit.
23. Time of holding Courts in Sixth Circuit.
24. Time of holding Courts in Seventh Circuit.
25. Time of holding Courts in Eighth Circuit.
26. Judges to hold Circuit Court.
27. Judges' power to adjourn Court of Common Pleas.
28. Special sessions of Circuit Courts.
29. Petit Jurors in Common Pleas and General Sessions.
30. Adjournment of Circuit Courts.
31. Qualification of Judges.
32. Circuit Courts made Courts of Record.
33. Clerk and Deputy Clerk of Circuit Courts.
34. Transfer of causes from Court of Chancery.

SEC. 17. The State is divided into eight Circuits, as follows:

First Circuit. 1868, XIV, 5, 72; 1869, XIV, 198.

1. The Counties of Charleston and Orangeburg shall constitute the First Circuit.

Second Circuit.

2. The Counties of Beaufort, Colleton and Barnwell shall constitute the Second Circuit.

Third Circuit. 1871, XIV, 679, § 2.

3. The Counties of Sumter, Clarendon, Williamsburg, Georgetown, Horry and Marion shall constitute the Third Circuit.

Fourth Circuit.

4. The Counties of Chesterfield, Marlboro, Darlington and Fairfield shall constitute the Fourth Circuit.

Fifth Circuit.

5. The Counties of Kershaw, Richland, Edgefield and Lexington shall constitute the Fifth Circuit.

Sixth Circuit. 1871, XIV, 696, § 6.

6. The Counties of Chester, Lancaster, York, Union and Aiken shall constitute the Sixth Circuit.

Seventh Circuit.

7. The Counties of Newberry, Laurens and Spartanburg shall constitute the Seventh Circuit.

Eighth Circuit.

8. The Counties of Greenville, Anderson, Oconee, Pickens and Abbeville shall constitute the Eighth Circuit.

SEC. 18. The Circuit Courts in the First Circuit shall be held as follows: First Circuit.

Charleston.

1. The Court of General Sessions, at Charleston, for the County of Charleston, on the first Monday of February, June and November; and the Court of Common Pleas, at Charleston, for the County of Charleston, on the second Monday of February, June and November.

Orangeburg. 1871, XIV, 698, § 2.

2. The Court of General Sessions, at Orangeburg, for the County of Orangeburg, on the first Monday of January, May and October; and the Court of Common Pleas, at Orangeburg, for the County of Orangeburg, on the first Wednesday after the first Monday of January, May and October.

SEC. 19. The Circuit Courts in the Second Circuit shall be held as follows: Second Circuit.

Beaufort.

1. The Court of General Sessions, at Beaufort, for the County of Beaufort, on the third Monday of February, June and October; and the Court of Common Pleas, in Beaufort, for the County of Beaufort, on the fourth Monday of February, June and October.

Colleton.

2. The Court of General Sessions, at Walterboro, for the County of Colleton, on the third Monday of March, July and November; and the Court of Common Pleas, at Walterboro, for the County of Colleton, on the first Thursday after the third Monday of March, July and November.

Barnwell.

3. The Court of General Sessions, at Blackville, for the County of Barnwell, on the Second Monday of April, August and December; and the Court of Common Pleas, at Blackville, in the County of Barnwell, on the first Thursday after the second Monday of April, August and December.

Third Circuit.

SEC. 20. The Circuit Courts in the Third Circuit shall be held as follows:

Sumter.

1. The Court of General Sessions, at Sumter, for the County of Sumter, on the first Monday of January, May and October; and the Court of Common Pleas, at Sumter, for the County of Sumter, on the first Wednesday after the first Monday of January, May and October.

Clarendon.

2. The Court of General Sessions, at Manning, for the County of Clarendon, on the third Monday of January, May and October; and the Court of Common Pleas, at Manning, for the County of Clarendon, on the first Wednesday after the third Monday of January, May and October.

Williamsburg

3. The Court of General Sessions, at Kingstree, for the County of Williamsburg, on the fourth Monday of January, May and October; and the Court of Common Pleas, at Kingstree, for the County of Williamsburg, on the first Wednesday after the fourth Monday of January, May and October.

Georgetown.

4. The Court of General Sessions, at Georgetown, for the County of Georgetown, on the first Monday after the fourth Monday of January, May and October; and the Court of Common Pleas, at Georgetown, for the County of Georgetown, on the first Wednesday after the first Monday after the fourth Monday of January, May and October.

Horry.

5. The Court of General Sessions, at Conwayboro, for the County of Horry, on the second Monday after the fourth Monday of January, May and October; and the Court of Common Pleas, at Conwayboro, for the County of Horry, on the first Wednesday after the second Monday after the fourth Monday of January, May and October.

Marion
1871, XIV, 639, § 2.

6. The Court of General Sessions, at Marion, for the County of Marion, on the third Wednesday after the fourth Monday of January, May and October; and the Court of Common Pleas, at Marion, for the County of Marion, on the first Wednesday after the third Monday after the fourth Monday of January, May and October.

Fourth Circuit.
1871, XIV, 659, §§ 1, 3, 4; 1870, XIV, 414, § 3, ¶ 1.

SEC. 21. The Circuit Courts in the Fourth Circuit shall be held as follows:

Chesterfield.

1. The Court of General Sessions, at Chesterfield, for the County of Chesterfield, on the first Monday of January, May and September; and

the Court of Common Pleas, at Chesterfield, for the County of Chesterfield, on the first Wednesday after the first Monday of January, May and September.

2. The Court of General Sessions, at Bennettsville, for the County of Marlboro, on the third Monday of January, May and September; and the Court of Common Pleas, at Bennettsville, for the County of Marlboro, on the first Wednesday after the third Monday of January, May and September. Marlboro.

3. The Court of General Sessions, at Darlington, for the County of Darlington, on the third Monday of February, June and October; and the Court of Common Pleas, at Darlington, for the County of Darlington, on the first Wednesday after the third Monday of February, June and October. Darlington.

4. The Court of General Sessions, at Winnsboro, for the County of Fairfield, on the second Monday of March, July and November; and the Court of Common Pleas, at Winnsboro, for the County of Fairfield, on the first Wednesday after the second Monday of March, July and November. Fairfield.

SEC. 22. The Circuit Courts in the Fifth Circuit shall be held as follows: Fifth Circuit. 1871, XIV, 98, § 1.

1. The Courts of General Sessions, at Camden, for the County of Kershaw, on the third Monday of January, April and September; and the Court of Common Pleas, at Camden, for the County of Kershaw, on the first Thursday after the third Monday of January, April and September. Change of time for holding Court in Kershaw.

2. The Court of General Sessions, at Columbia, for the County of Richland, on the first Monday of February, May and October; and the Court of Common Pleas, at Columbia, for the County of Richland, on the second Monday of February, May and October. Richland.

3. The Court of General Sessions, at Lexington, for the County of Lexington, on the fourth Monday of February, May and October; and the Court of Common Pleas, at Lexington, for the County of Lexington, on the first Wednesday after the fourth Monday of February, May and October. Lexington.

4. The Court of General Sessions, at Edgefield, for the County of Edgefield, on the first Monday of March, June and November; and the Court of Common Pleas, at Edgefield, for the County of Edgefield, on the second Monday of March, June and November. Edgefield.

SEC. 23. The Circuit Courts in the Sixth Circuits shall be held as follows: Sixth Circuit. 1870, XIV, 415, § 5.

1. The Court of General Sessions, at Union, for the County of Union, on the second Monday in January, first Monday in March and first Monday in September; and the Court of Common Pleas, at Union, for the County of Union, on the first Wednesday after the second Monday in January, and the first Wednesday after the first Monday in March and September. Union.

York.

2. The Court of General Sessions, at York, for the County of York, on the third Monday in January, March and September; and the Court of Common Pleas at York, for the County of York, on the first Wednesday after the third Monday in January, March and September.

Lancaster.

3. The Court of General Sessions, at Lancaster, for the County of Lancaster, on the fourth Monday in January, and first Monday after the fourth Monday in March and September; and the Court of Common Pleas at Lancaster, for the County of Lancaster, on the first Wednesday after the fourth Monday in January, and the first Monday after the fourth Monday in March and September.

Chester.

4. The Court of General Sessions, at Chester, for the County of Chester, on the first Monday after the fourth Monday in January, and the third Monday after the fourth Monday in March and September; and the Court of Common Pleas at Chester, for the County of Chester, on the first Wednesday after the first Monday after the fourth Monday in January, and the third Monday after the fourth Monday in March and September.

Aiken.
1871, XIV, 696, § 6.

5. The regular terms of the Courts of General Sessions and Common Pleas, for the County of Aiken, shall be held in the town of Aiken, on the second Monday of January, May and September.

Seventh Circuit.

SEC. 24. The Circuit Courts in the Seventh Circuit shall be held as follows:

Newberry.

1. The Court of General Sessions, at Newberry, for the County of Newberry, on the third Monday of January, May and September; and the Court of Common Pleas at Newberry, for the County of Newberry, on the first Wednesday after the third Monday of January, May and September.

Laurens.

2. The Court of General Sessions, at Laurensville, for the County of Laurens, on the third Monday of February, June and October; and the Court of Common Pleas at Laurensville, for the County of Laurens, on the first Wednesday after the third Monday of February, June and October.

Spartanburg.

3. The Court of General Sessions, at Spartanburg, for the County of Spartanburg, on the third Monday of March, July and November; and the Court of Common Pleas at Spartanburg, for the County of Spartanburg, on the first Monday after the third Monday in March, July and November.

Eighth Circuit.

SEC. 25. The Circuit Courts in the Eighth Circuit shall be held as follows:

Greenville.
1871, XIV, 659, § 1.

1. The Court of General Sessions, at Greenville, for the County of Greenville, on the first Monday in January, May and September; and the Court of Common Pleas at Greenville, for the County of Greenville, on the first Wednesday after the first Monday in January, May and September.

2. The Court of General Sessions, at Anderson, for the County of Anderson, on the fourth Monday of January, May and September; and the Court of Common Pleas at Anderson, for the County of Anderson, on the first Wednesday after the fourth Monday of January, May and September. Anderson.

3. The Court of General Sessions, at Walhalla, for the County of Oconee, on the second Monday of March, July and November; and the Court of Common Pleas at Walhalla, for the County of Oconee, on the first Wednesday after the second Monday of March, July and November. Oconee.

4. The Court of General Sessions, at New Pickens, for the County of Pickens, on the fourth Monday of March, July and November; and the Court of Common Pleas at New Pickens, for the County of Pickens, on the first Wednesday after the fourth Monday of March, July and November. Pickens.

5. The Court of General Sessions, at Abbeville, for the County of Abbeville, on the third Monday of February, June and October; and the Court of Common Pleas at Abbeville, for the County of Abbeville, on the first Wednesday after the third Monday in February, June and October. Abbeville.

The Judges to hold Circuit Courts.

SEC. 26. The Judges elected and commissioned for the several Circuits shall hold the Courts of Common Pleas and General Sessions for the several Counties in their respective Circuits: *Provided*, Said Judges shall interchange Circuits, upon their request to, and order of, the Chief Justice, or upon the order of the Chief Justice without such request, whenever, in his judgment, it shall be deemed advisable.

Judge's power to adjourn Court of Common Pleas.

SEC. 27. Should the business before the Court of General Sessions, at any term, not be completed on the arrival of the day fixed by law for the holding of the Court of Common Pleas for said County, the Judge presiding may, in his discretion, adjourn said Court of Common Pleas until the said business of the Court of General Sessions shall have been concluded.

Special Sessions of Circuit Courts.

SEC. 28. The several Circuit Judges shall have power to hold special sessions within their respective Circuits, at any time in their discretion, or at the discretion of the Chief Justice, of which the Judge presiding shall give such notice as the Chief Justice may direct, or as may, in his judgment, be necessary, should no directions be given. The Clerk of such Court shall, at least fifteen days before the commencement of such special session, cause the time and place for holding the same to be notified, for at least two weeks, successively, in one or more of the newspapers published nearest the place where the session is to be holden. All processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail, or otherwise, which relate to the cases to be tried at the said special session, shall be considered as belonging to such sessions, in the same manner as if they had been issued or taken in refer-

ence thereto. All business depending for trial at any special session shall, at the close thereof, be considered as of course removed to the next stated term of the Court. Said special session shall be held in pursuance of an order which shall be transmitted to the Clerk of the Court, and by him entered on the records of the Court.

Petit Jurors in Common Pleas and General Sessions.

SEC. 29. Petit jurors summoned to attend the Court of General Sessions in any County, except the County of Charleston, shall also attend and serve as jurors for the Court of Common Pleas next ensuing in and for said County.

Adjournment of the Circuit Courts.

SEC. 30. The Judge of the Circuit Court shall have power to direct any Circuit Court in his Circuit to be adjourned over to a future day, designated in a written order to the Clerk of said Court, whenever there is a dangerous and general disease at the place where said Court is usually holden.

Qualification of Judges.

SEC. 31. The Judges elected and qualified by taking the oath prescribed in the thirtieth Section of the second Article of the Constitution, which oath, to the Judges under the first election, shall be administered by the Governor of the State of South Carolina, who is hereby empowered to administer the same, and to the Judges under any subsequent election by one of the Justices of the Supreme Court, shall forthwith enter upon their duties.

Circuit Courts made Courts of Record.

SEC. 32. The Circuit Courts herein established shall be the Courts of record, and the books of record thereof shall, at all times, be subject to the inspection of any person interested therein.

Clerk and Deputy Clerk of the Circuit Court.

SEC. 33. The Clerk elected in each County under the provisions of Section 27 of Article IV of the Constitution, shall be Clerk of the Courts of General Sessions and Common Pleas, and may appoint a deputy, who may perform the duties of Clerk, for whose acts such Clerk shall be responsible; and a record of whose appointment shall be made in the Clerk's office; and such appointment may be revoked at the pleasure of the Clerk; and in case no Clerk exists, the Judge shall have authority to appoint a person, who shall perform the duties of Clerk, and said Deputy Clerk, or the one appointed by the Judge, shall be required to give the usual bond before entering on the duties of the office.

Transfer of causes from the Courts of Chancery.

SEC. 34. All suits in Equity depending in the Courts of Chancery, and not finally disposed of, and the property and records relating thereto, on the first day of January, A. D. 1869, shall be transferred to the Courts of Common Pleas in and for the respective Counties, and shall be entered upon the dockets of said Courts for the stated term thereof next ensuing, and thereupon shall be heard, tried and determined, with all rights respected and preserved, in the same manner as if originally brought there: *Provided*, That no cause shall be transferred to the dockets of the Courts aforesaid, not cognizable therein under the Constitution:

Provided, further, That all causes depending as aforesaid, and the property and records pertaining thereto, cognizable under the Constitution in the Courts of Probate, shall be transferred to said Courts.

TITLE 4.—PROBATE COURT.

SEC.
35. Sessions.
36. Court of Record.
37. Duties of Clerk.
38. Jurisdiction of Judges.
39. In relation to guardians.
40. Titles and partition of real estate.
41. Settlement of estate in the County where will proved.
42. All proceedings relative to estates under guardianship had in the Court of Probate.
43. Judges not to act when interested. When Judges of adjoining County to act.
44. Power to administer oath.
45. Probate Court may issue warrants and processes.
46. In cases of contumacy may commit to jail.
47. When depositions may be taken and used.
48. Exclusive jurisdiction after once acquired.
49. Jurisdiction not to be collaterally impeached.
50. When minor may choose guardian; guardian interested; where appointed.
51. Authorized to permit sale and settle accounts of guardian.
52. Judges may appoint times and places for holding Courts.
53. Open at all times for certain business.
54. Adjournment of Court. When, by Clerk.
55. Appellate jurisdiction of Circuit Court.
56. Jurisdiction of Supreme Court in probate matters.
57. Appeal to the Circuit Court to be taken within fifteen days.
58. Appellant to give bond to prosecute appeal.
59. Grounds of appeal to be filed.
60. Certified copies of record to be filed in Circuit Court.
61. Proceedings stayed by appeal.
62. How Circuit Court proceed to the trial.
63. Costs given to the prevailing party.
64. Appellant neglecting to enter appeal, judgment affirmed with costs.
65. Final decision to be certified to Probate Court.
66. Probate Judge not to have voice in determining appeal. When may practice law.
67. All proceedings to be commenced by petition.
68. Supreme Court to make rules.
69. County Commissioners to provide all books, etc.
70. Judge may keep order and punish contempt.
71. Processes of Court—how executed.
72. Judge may commit lunatics, etc., to Lunatic Asylum.
73. Laws of Provisional Government, how far adopted. Transfer of record.

SEC. 35. A Court of Probate is hereby established in each of the several Counties in this State, which shall hold a session on the first Monday of each month at or near the court house, and continue thereafter so long as the business may require.

Sessions. 1868, XIV, 76; 1869, XIV, 241.

SEC. 36. The Court of Probate shall be a Court of Record, and have a seal, may appoint a Clerk, and may remove him at pleasure, and on failure of the Court to appoint such Clerk, the Judge of the Court may perform all the duties of Clerk.

Court of Record. 1 M. Con. R., 267.

SEC. 37. The Clerk of the Court of Probate shall keep a true and fair record of each order, sentence and decree of the Court, and of all other things proper to be recorded; and, on the legal fees being paid, shall give true and attested copies of the files and proceedings of the Court. All copies so attested shall be legal evidence in the Courts of this State.

Duties of the Clerk.

SEC. 38. Every Judge of Probate, in his County, shall have jurisdiction in all matters testamentary and of administration in business appertaining to minors and the allotment of dower, cases of idiocy and lunacy, and persons *non compotes mentis*.

Jurisdiction of Judges. 1 N. & McC., 526; 4 McC., 217.

In relation to guardians.

SEC. 39. The Judge of Probate shall have jurisdiction in relation to the appointment and removal of guardians of minors, insane and idiotic persons, and persons *non compotes mentis*, and in relation to the duties imposed by law on such guardians, and the management and disposition of the estates of their wards. He shall exercise original jurisdiction in relation to trustees appointed by will in cases prescribed by law.

Titles and partition of real estate.

(See Chap. CXIV.)

SEC. 40. He may exercise jurisdiction of all petitions for partitions of real estate where no dispute exists in relation to the title thereof; and when the title to such real estate is disputed, he shall refer the same to the Circuit Court for adjudication, unless the parties shall consent to his determination of the same. The probate of the will and the granting of administration of the estate of any person deceased shall belong to the Judge of Probate for the County in which such person was last an inhabitant; but if such person was not an inhabitant of this State, the same shall belong to the Judge of Probate in any County in which the greater part of his or her estate may be.

Settlement of estate in County where will is proved.

SEC. 41. All proceedings in relation to the settlement of the estate of any person deceased shall be had in the Probate Court of the County in which his will was proved or administration of estate was granted.

All proceedings relative to estates under guardianship had in Court of Probate.

SEC. 42. All proceedings in relation to the property or estate of any person under guardianship shall be had in the Court of Probate of the County in which the guardian was appointed.

Judges not to act when interested. In such cases Judges of adjoining County to act.

SEC. 43. No Judge of Probate shall act as such in the settlement of any estate wherein he is interested as heir or legatee, executor or administrator, or as guardian or trustee of any person; in every such case the Judge of Probate of any adjoining County shall have jurisdiction, and it shall be his duty, upon application, to attend at some term of the Court of Probate in which such case may be pending, which shall not interfere with the duties in his own County, and hear and determine such case.

Power to administer oath.

SEC. 44. The Judge or Clerk of the Probate Court shall have power to administer all oaths necessary in the transaction of business before the Probate Court, and all oaths required by law to be administered to persons executing trust under the appointment of said Court.

The Probate Court may issue warrants and processes.

SEC. 45. Probate Courts may issue all warrants and processes, in conformity to the rules of law, which may be necessary to compel the attendance of witnesses, or to carry into effect any order, sentence or decree of such Courts, or the powers granted them by law.

In cases of contumacy to commit to jail.

SEC. 46. If any person shall refuse or neglect to perform any order, sentence or decree of a Probate Court, such Court may issue a warrant, directed to any Sheriff or Constable in the State, requiring him to apprehend and imprison such person in the common jail of the County; and if there be no jail of the County, then in the jail of the adjoining

County, until he shall perform such order, sentence or decree, or be delivered by due course of law.

When depositions may be taken and used.

SEC. 47. When a witness whose testimony is necessary to be used before any Probate Court shall reside out of this State, or more than thirty miles from the place of holding Court, or, by reason of age or bodily infirmity, shall be unable to attend in person, the Court may issue a commission to one or more competent persons to take the testimony of such witness; and depositions taken according to the provisions of the law for taking depositions to be used on the trial of civil causes may be used on the trial of any question before the Probate Court where such testimony may be proper.

Exclusive jurisdiction after once acquired.

SEC. 48. When any Probate Court shall have first taken cognizance of the settlement of the estate of a deceased person, such Court shall have jurisdiction of the disposition and settlement of all the estate of such deceased person to the exclusion of all other Probate Courts.

Jurisdiction not to be collaterally impeached.

SEC. 49. The jurisdiction assumed by any Probate Court in any case, so far as it depends on the place of residence or the location of his estate, shall not be contested in any suit or proceeding whatever, except in an appeal from the Probate Court in the original case, or when the want of jurisdiction appears on the record.

Guardian interested—where to appoint. When a minor may choose guardian.

SEC. 50. When, by law, a guardian is required to be appointed of a minor, who is interested as heir or legatee, or representative of such heir or legatee, in any estate which is in a course of settlement, such guardian shall be appointed by the Probate Court before which such estate is in course of settlement; but afterwards, if the minor shall reside in another County, and is of the age of fourteen years, he may choose and have a guardian appointed in the County where he shall reside; and in that case, the powers of the first guardian shall cease. In all other cases, guardians shall be appointed by the Probate Court of the County where the persons for whom the guardian shall be appointed shall reside.

Authorized to permit sale and to settle accounts of guardian.

SEC. 51. The Probate Court by which a guardian shall be appointed shall have jurisdiction of the estate of the ward, and shall be alone authorized to permit the sale of such estate, and settle such guardian's accounts.

Judges may appoint times and places for holding Probate Courts.

SEC. 52. Except as provided in the first Section, the Probate Court in each County shall appoint such times and places for holding Courts as shall be judged most convenient for all persons interested, and shall give notice of such times and places in one or more newspapers circulating in the County.

Open at all times for certain business.

SEC. 53. The Probate Court shall be deemed open at all times for the transaction of ordinary business which may be necessary, when previous notice is not required to be given to the persons interested.

Of adjournment of Court—when by the Clerk.

SEC. 54. A Probate Court may be adjourned as occasion may require; and when the Judge is absent at the time for holding a Court, the Clerk may adjourn it.

Appellate jurisdiction of Circuit Court. 3 McC., 475; 1 Bail., 361.

SEC. 55. The Circuit Court shall have appellate jurisdiction of all matters originally within the jurisdiction of the Probate Court.

Jurisdiction of Supreme Court in Probate matters.

SEC. 56. The Supreme Court shall have jurisdiction of all questions of law arising in the course of the proceedings of the Circuit Court, in probate matters, in the same manner as provided by law in other cases.

Appeal to the Circuit Court to be taken within fifteen days 1899, XI, 60, 13.

SEC. 57. Any person interested in any final order, sentence or decree of any Probate Court, and considering himself injured thereby, may appeal therefrom to the Circuit Court in the same County, at the stated session next after such appeal, and such appeal shall be granted by the Probate Court, if application be made and filed in the Clerk's office within fifteen days from the date of the decision appealed from.

Appellant to give bond to prosecute appeal.

SEC. 58. In all cases of appeal from the proceedings of the Probate Court, before such appeal shall be allowed, the person appealing shall give a bond to the satisfaction of the Probate Court, with a condition that he shall prosecute such appeal to effect, and pay all intervening damages and costs occasioned by such appeal.

Grounds of appeal to be filed.

SEC. 59. In all cases of appeal, the appellant shall file in the Probate office his grounds of appeal, and cause a copy thereof to be served on the adverse party, at least twelve days before the time when the appeal is to be entered in the Circuit Court.

Certified copies of record to be filed in Circuit Court.

SEC. 60. The person appealing shall procure and file in the Circuit Court to which such appeal is granted a certified copy of the record of the proceedings appealed from, of the application and grounds for the appeal filed in the Probate Court, and of the allowance of the same, together with the proper evidence that notice has been given to the adverse party according to law.

Proceedings stayed by appeal.

SEC. 61. When an appeal, according to law, is allowed by the Probate Court, all proceedings, in pursuance of the order, sentence or decree appealed from shall cease until the judgment of the Circuit or Supreme Court is had; but if the appellant, in writing, waives his appeal before the entry thereof, proceedings may be had in the Probate Court as if no appeal had been taken.

How Circuit Court to proceed to the trial.

SEC. 62. When such certified copy shall have been filed in the Circuit Court, such Court shall proceed to the trial and determination of the question, according to the rules of law; and if there shall be any question of fact or title to land to be decided, issue may be joined thereon under the direction of the Court, and a trial thereof had by jury.

SEC. 63. The Circuit Court or Supreme Court, as the case may be, may tax costs for the party who shall prevail; or when, in the opinion of the Court, justice shall require it, the Court may deny such costs, and may tax costs for either party; and if costs be taxed against an executor or administrator, the same shall be allowed to him in his administration account.

Costs given to prevailing party.

SEC. 64. If the person appealing from the proceedings of the Probate Court, as provided in this Title, shall neglect to enter his appeal, the Circuit Court to which such appeal shall be taken, on motion, and producing attested copies of such appeal by the adverse party, shall affirm the proceedings appealed from, and may allow costs against the appellant.

Appellant neglecting to enter an appeal, judgment affirmed with costs.

SEC. 65. The final decision and judgment in cases appealed, as hereinbefore provided, shall be certified to the Probate Court by the Circuit Court or Supreme Court, as the case may be, and the same proceedings shall be had in the Probate Court as though such decision had been made in such Probate Court.

Final decision to be certified to Probate Court.

SEC. 66. No Judge of any Probate Court shall be admitted to have any voice in judging or determining any appeal from his decision, or be permitted to act as attorney or counsel thereon, or receive fees as counsel in any matter pending in the Probate Court of which he is Judge: *Provided,* It shall be lawful for Judges of Probate to practice law in other Courts in such cases as are not cognizable in the Courts of Probate.

No Probate Judge to have voice in determining an appeal. When may practice law.

SEC. 67. All proceedings in the Court of Probate shall be commenced by petition to the Judge of Probate for the County to whom the jurisdiction of the subject-matter belongs, briefly setting forth the facts or grounds of the application.

Proceedings to be commenced by partition.

SEC. 68. The Supreme Court may, from time to time, make rules regulating the practice and conducting the business in the Courts of Probate, in all cases not expressly provided for by law.

The Supreme Court to make rules.

SEC. 69. The County Commissioners of each County shall provide all books necessary for keeping the records; also, a seal and necessary office furniture: *Provided,* Said furniture shall not exceed in cost the sum of one hundred dollars.

County Commissioners to provide books, &c.

SEC. 70. The Judge may keep order in Court, and punish any contempt of his authority in like manner as such contempt might be punished in the Circuit or Supreme Court.

Judge may keep order and punish contempt.

SEC. 71. When costs are awarded, to be paid by one party to the other, in the Courts of Probate, said Courts may issue execution therefor, in like manner as is practiced in the Courts of common law; and when no form for a warrant or process is prescribed by statute or rules of Court, he shall frame one in conformity to the rules of law, and the usual course of proceedings in this State. Any Sheriff or Constable

Processes of Court—how executed.

in the State shall execute the order or processes of said Court, in the same manner as the order or processes of the Circuit or Supreme Courts.

Judges may commit lunatics, &c. to Lunatic Asylum

SEC. 72. The Judge of the Probate Court may commit to the Lunatic Asylum any idiot, lunatic or person *non compos mentis*, who, in his opinion, is so furiously mad as to render it manifestly dangerous to the peace and safety of the community that he or she should be at large; and also in all such other cases provided by law. In all cases the Judge shall certify in what place the said person or persons resided at the time of the commitment, and such certificate shall be conclusive evidence of such residence.

Laws of Provisional Government, how far adopted.

SEC. 73. All laws and parts of laws of the late Provisional Government of South Carolina, relative to the powers, duties and course of procedure of the Courts of Ordinary and Equity, as far as the jurisdiction of said Courts is herein conferred on the Courts of Probate, not inconsistent with the Constitution and this Act, or supplied by it, are hereby adopted and declared to be of force, and applicable to the Courts of Probate.

TITLE 5. OF THE COURTS OF TRIAL JUSTICES.

SEC.
74. Jurisdiction.
75. Qualification of bail.
76. Justification of bail.
77. Allowance of bail.
78. Property, how taken when concealed in building or inclosure.
79. Property, how kept.
80. Claim of property by third person.
81. No jurisdiction in certain cases.
82. Answer of title.
83. Undertaking
84. Suit discontinued
85. If undertaking not given.
86. The same.
87. New action.
88. Costs.
89. Answer of title as to one cause of action.
90. Docketing judgments.
91. Rules.

Jurisdiction.

SEC. 74. Trial Justices shall have civil jurisdiction in the following actions, and no others:

1. In actions arising on contracts for the recovery of money only, if the sum claimed does not exceed one hundred dollars.

2. An action for damages for injury to rights pertaining to the person, or the personal or real property, if the damages claimed do not exceed one hundred dollars, and in cases of bastardy.

3. An action for a penalty, fine or forfeiture, where the amount claimed or forfeited does not exceed one hundred dollars.

4. An action commenced by attachment of property, as now provided by statute, if the debt or damages claimed do not exceed one hundred dollars.

5. An action upon bond conditioned for the payment of money, not exceeding one hundred dollars, though the penalty exceed that sum, the judgment to be given for the sum actually due. Where the payments are to be made by installments, an action may be brought for each installment as it becomes due.

6. An action upon a surety bond taken by them, where the penalty or amount claimed does not exceed one hundred dollars.

7. An action upon a judgment rendered in a Court of a Trial Justice or an inferior Court in a city where such action is not prohibited by Section ninety-four.

8. To take and enter judgment on the confession of a defendant, where the amount confessed shall not exceed one hundred dollars, in the manner prescribed by law.

9. An action for damages, fraud in the sale, purchase or exchange of personal property, if the damages claimed do not exceed one hundred dollars.

10. An action to recover the possession of personal property claimed, the value of which, as stated in the affidavit of the plaintiff, his agent or attorney, shall not exceed the sum of one hundred dollars.

The plaintiff in such action, at the time of issuing the summons, but not afterwards, may claim the immediate delivery of such property as hereinafter provided.

Before any process shall be issued in an action to recover the possession of personal property, the plaintiff, his agent or attorney, shall make proof by affidavit, showing:

1. That the plaintiff is the owner, or entitled to immediate possession, of the property claimed, particularly describing the same.

2. That such property is wrongfully withheld or detained by the defendant.

3. The cause of such detention or withholding thereof, according to the best knowledge, information and belief of the person making the affidavit.

4. That said personal property has not been taken for any tax, fine or assessment, pursuant to statute, or seized by virtue of an execution or attachment against the property of said plaintiff; or, if so seized, that it is exempt from such seizure by statute.

5. The actual value of said personal property.

On receipt of such affidavit, and an undertaking, in writing, executed by one or more sufficient sureties, to be approved by the Trial Justice before whom such action is commenced, to the effect that they are bound in double the value of such property as stated in said affidavit, for the prosecution of said action, and for the return of said property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against said plaintiff, the Trial Justice shall endorse upon said affidavit a direction to any Constable of the County in which said Trial Justice shall reside, requiring said Constable to take the property described therein from the defendant, and keep the same, to be disposed of according to law; and the said Trial Justice shall at the same time issue a summons directed to the defendant, and requiring him to appear before said Trial Justice at a time and place to be therein specified, and not more than twelve days from the date thereof, to answer the complaint of said plaintiff; and the said sum-

mons shall contain a notice to the defendant that, in case he shall fail to appear at the time and place therein mentioned, the plaintiff will have judgment for the possession of the property described in said affidavit, with the costs and disbursements of said action.

The Constable to whom said affidavit, endorsement and summons shall be delivered, shall forthwith take the property described in said affidavit, if he can find the same, and shall keep the same in his custody. He shall thereupon, without delay, serve upon said defendant a copy of such affidavit, notice and summons, by delivering the same to him personally, if he can be found in said County; if not found, to the agent of the defendant in whose possession said property shall be found; if neither can be found, by leaving such copies at the last or usual place of abode of the defendant, with some person of suitable age and discretion. And shall forthwith make a return of his proceedings thereon, and the manner of serving the same, to the Trial Justice who issued the said summons.

The defendant may at any time after such service, and at least two days before the return-day of said summons, serve upon plaintiff, or upon the Constable who made such service, a notice in writing that he excepts to the sureties in said bond or undertaking; and if he fail to do so, all objection thereto shall be waived. If such notice be served, the sureties shall justify, or the plaintiff give new sureties on the return-day of said summons, who shall then appear and justify, or said Trial Justice shall order said property delivered to defendant, and shall also render judgment for defendant's costs and disbursements.

At any time before the return day of said summons, the said defendant may, if he has not excepted to plaintiff's sureties, require the return of said property to him upon giving to the plaintiff, and filing same with the Trial Justice, a written undertaking, with one or more sureties, who shall justify before said Trial Justice on the return-day of said summons, to the effect that they are bound in double the value of said property, as stated in plaintiff's affidavit, for the delivery thereof to said plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may for any cause be recovered against said defendant; and if such return be not required before the return day of said summons, the property shall be delivered to said plaintiff.

Qualifications of bail.

SEC. 75. The qualification of bail must be as follows:

1. Each of them must be a resident, and householder or freeholder within the State.

2. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from execution; but the Judge or a Trial Justice, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

Justification of bail.

SEC. 76. For the purpose of justification, each of the bail shall attend before the Judge or a Trial Justice at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff,

touching his sufficiency, in such manner as the Judge or Trial Justice, in his discretion, may think proper. The examination shall be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Allowance of bail. Sheriff exonerated from liability, when

SEC. 77. If the Judge or Trial Justice find the bail sufficient, he shall annex the examination to the undertaking, endorse his allowance thereon, and cause them to be filed with the Clerk; and the Sheriff shall, thereupon, be exonerated from liability.

Property—how taken if concealed in inclosure or building.

SEC. 78. If the property, or any part thereof, be concealed in a building or enclosure, the Constable shall publicly demand its delivery. If it be not delivered, he shall cause the building or enclosure to be broken open, and take the property into his possession; and, if necessary, he may call to his aid the power of his County.

Property—how kept.

SEC. 79. When a Constable shall have taken property, as in this Chapter provided, he shall keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his lawful fees for taking, and his necessary expenses for keeping the same.

Claim of property by third person.

SEC 80. If the property taken be claimed by any other person than the defendant or his agent, and such person shall make affidavit of his title thereto, and right to the possession thereof, stating the grounds of such right and title, and serve the same upon the Constable, the Constable shall not be bound to keep the property, or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, shall indemnify the Constable against such claim, by an undertaking, executed by two sufficient sureties, accompanied by their affidavits, that they are each worth double the value of the property as specified in the affidavit of the plaintiff, and freeholders and householders of the County. And no claim to such property, by any other person than the defendant or his agent, shall be valid against the Constable, unless made as aforesaid; and notwithstanding such claim, when so made, he may retain the property a reasonable time to demand such indemnity.

The actions so commenced shall be tried in all respects as other actions are tried in Trial Justices' Courts.

The judgment for the plaintiff may be for the possession, or for the recovery of the possession, or the value thereof, in case a delivery cannot be had, and of damages for the detention. If the property have been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same. An execution shall be issued thereon, and if the judgment be for the delivery of the possession of personal property, it shall require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may, at the same time, require the officer to satisfy any costs or damages recovered by the same judgment out of the personal property of the party against

whom it was rendered, to be specified therein, if a delivery thereof cannot be had. The execution shall be returnable within sixty days after its receipt by the officer to the Trial Justice who issued the same.

In all actions for the recovery of the possession of personal property, as herein provided, if the property shall not have been delivered to plaintiff, or the defendant, by answer, shall claim a return thereof, the Trial Justice or jury shall assess the value thereof, and the injury sustained by the prevailing party by reason of the taking or detention thereof, and the Trial Justice shall render judgment accordingly, with costs and disbursements.

If it shall appear by the return of a Constable that he has taken the property described in the plaintiff's affidavit, and that defendant cannot be found, and has no last place of abode in said County, or that no agent of defendant could be found on whom service could be made, the Trial Justice may proceed with the cause in the same manner as though there had been a personal service.

For the indorsement on said affidavit the Trial Justice shall receive an additional fee of twenty-five cents, which shall be included in the costs of the suit.

No jurisdiction in certain cases.

SEC. 81. But no Trial Justice shall have cognizance of a civil action:

1 In which the State is a party, excepting for penalties not exceeding one hundred dollars;

2. Nor where the title to real property shall come in question;

3. Nor of a civil action for an assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, where the damages claimed exceed one hundred dollars;

4. Nor of an action against an executor or administrator, as such.

Answer of title.

SEC. 82. In every action brought in a Court of Trial Justice, where the title to real property shall come in question, the defendant may, either with or without other matter of defence, set forth in his answer any matter showing that such title will come in question. Such answer shall be in writing, signed by the defendant or his attorney, and delivered to the Trial Justice. The Trial Justice shall thereupon countersign the same and deliver it to the plaintiff.

Written undertaking to be given.

SEC. 83. At the time of answering, the defendant shall deliver to the Trial Justice a written undertaking, executed by at least one sufficient surety, and approved by the Trial Justice, to the effect that if the plaintiff shall, within twenty days thereafter, deposit with the Trial Justice a summons and complaint in an action in the Circuit Court for the same cause, the defendant will, within twenty days after such deposit, give an admission in writing of the service thereof.

Where the defendant was arrested in the action before the Trial Justice, the undertaking shall further provide that he will, at all times, render himself amenable to the process of the Court during the pending of the action, and to such as may be issued to enforce the judgment

therein. In case of failure to comply with the undertaking, the surety shall be liable not exceeding one hundred dollars.

SEC. 84. Upon the delivery of the undertaking to the Trial Justice, the action before him shall be discontinued, and each party shall pay his own costs. The costs so paid by either party shall be allowed to him if he recover costs in the action to be brought for the same cause in the Circuit Court. If no such action be brought within thirty days after the delivery of the undertaking, the defendant's costs before the Trial Justice may be recovered of the plaintiff.

Action discontinued.

Costs.

SEC. 85. If the undertaking be not delivered to the Trial Justice, he shall have jurisdiction of the cause, and shall proceed therein; and the defendant shall be precluded, in his defence, from drawing the title in question.

If undertaking not given.

SEC. 86. If, however, it appear on the trial, from the plaintiff's own showing, that the title to real property is in question, and such title shall be disputed by the defendant, the Trial Justice shall dismiss the action and render judgment against the plaintiff for the costs.

The same

SEC. 87. When a suit before a Trial Justice shall be discontinued by the delivery of an answer and undertaking, as provided in Sections eighty-two, eighty-three and eighty-four, the plaintiff may prosecute an action for the same cause in the Circuit Court, and shall complain for the same cause of action only on which he relied before the Trial Justice; and the answer of the defendant shall set up the same defence only which he made before the Trial Justice.

Another action may be brought.

SEC. 88. If the judgment in the Circuit Court be for the plaintiff, he shall recover costs; if it be for the defendant, he shall recover costs, except that upon a verdict he shall pay costs to the plaintiff, unless the Judge certify that the title to real property came in question on the trial.

Costs.

SEC. 89 If, in an action before a Trial Justice, the plaintiff have several causes of action, to one of which the defence of title to real property shall be interposed, and, as to such cause, the defendant shall deliver an answer and undertaking, as provided in Sections eighty-two and eighty-three, and the Trial Justice shall discontinue the proceedings as to that cause, and the plaintiff may commence another action therefor in the Circuit Court. As to the other causes of action, the Trial Justice may continue his proceedings.

Answer of title as to one cause of action. Transfer of cases to Circuit Court.

SEC. 90. A Trial Justice, on the demand of a party in whose favor he shall have rendered a judgment, shall give a transcript thereof, which may be filed and docketed in the office of the Clerk of the County where the judgment was rendered. The time of the receipt of the transcript by the Clerk shall be noted thereon and entered in the docket; and from that time the judgment shall be a judgment of the Circuit Court. A certified transcript of such judgment may be filed and docketed in the Clerk's office of any other County, and with the like effect,

Docketing judgment of Justices.

in every respect, as in the County where the judgment was rendered. But no such judgment for a less sum than twenty-five dollars, exclusive of costs, shall be so docketed or enforced against real property.

Rules.

SEC. 91. The following rules shall be observed in the Courts of Trial Justices:

1. The pleadings in these Courts are: 1. The complaint by the plaintiff; 2. The answer by the defendant.

2. The pleadings may be oral or in writing; if oral, the substance of them shall be entered by the Trial Justice in his docket; if in writing, they shall be filed by him, and a reference to them shall be made in the docket.

3. The complaint shall state, in a plain and direct manner, the facts constituting the cause of action.

4. The answer may contain a denial of the complaint, or any part thereof, and also a notice, in a plain and direct manner, of any facts constituting a defence or counter claim.

5. Pleadings are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended.

6. Either party may demur to a pleading of his adversary, or any part thereof, when it is not sufficiently explicit to enable him to understand it, or it contains no cause of action or defence, although it be taken as true.

7. If the Court deem the objection well founded, it shall order the pleading to be amended; and, if the party refuse to amend, the defective pleading shall be disregarded.

8. In case a defendant does not appear and answer, the plaintiff cannot recover without proving his case.

9. In an action or defence founded upon an account, or an instrument for the payment of money only, it shall be sufficient for a party to deliver the account or instrument to the Court, and to state that there is due to him thereon, from the adverse party, a specified sum, which he claims to recover or set off.

10. A variance between the proof on the trial and the allegations in a pleading shall be disregarded as immaterial, unless the Court shall be satisfied that the adverse party has been misled to his prejudice thereby.

11. The pleadings may be amended at any time before the trial, or during the trial, or upon appeal, when, by such amendment, substantial justice will be promoted. If the amendment be made after the joining of the issue, and it be made to appear to the satisfaction of the Court, by oath, that an adjournment is necessary to the adverse party, in consequence of such amendment, an adjournment shall be granted. The Court may also, in its discretion, require, as a condition of an amendment, the payment of costs to the adverse party.

12. Execution may be issued on a judgment, heretofore or hereafter rendered in Trial Justices' Courts at any time within five years after the rendition thereof, and shall be returnable sixty days from the date of the same.

13. If the judgment be docketed with the Clerk of the Circuit Court, the execution shall be issued by him to the Sheriff of the County, and have the same effect, and be executed in the same manner, as other executions and judgments of the Circuit Court.

14. The Court may, at the joining of the issue, require either party, at the request of the other, at that or some other specified time, to exhibit his account, or state the nature thereof as far forth as may be in his power, and, in case of his default, preclude him from giving evidence of such parts thereof as shall not have been so exhibited or stated.

15. The provisions of this Code of Procedure, respecting forms of action, parties to actions, the rules of evidence, the times of commencing actions, and the service of process upon corporations, shall apply to these Courts.

The defendant may, on the return of process, and before answering, make an offer in writing to allow judgment to be taken against him for an amount, to be stated in such offer, with costs. The plaintiff shall thereupon, and before any other proceedings shall be had in the action, determine whether he will accept or reject such offer. If he accept the offer, and give notice thereof in writing, the Trial Justice shall file the offer and the acceptance thereof, and render judgment accordingly. If notice of acceptance be not given, and if the plaintiff fail to obtain judgment for a greater amount, exclusive of costs, than has been specified in the offer, he shall not recover costs, but shall pay to the defendant his costs accruing subsequent to the offer.

PART II.—Of Civil Actions.

TITLE 1. *Of their Form.*
2. *Of the Time of Commencing them.*
3. *Of the Parties.*
4. *Of the Place of Trial.*
5. *Of the Manner of Commencing them.*
6. *Of the Pleadings.*
7. *Of the Provisional Remedies.*
8. *Of the Trial and Judgment.*
9. *Of the Execution of the Judgment.*
10. *Of the Costs.*
11. *Of Appeals.*
12. *Of the Miscellaneous Proceedings.*
13. *Actions in Particular Cases.*
14. *Provisions Relating to Existing Suits.*
15. *General Provisions.*

TITLE 1.—FORM OF CIVIL ACTIONS.

SEC.
92 Distinctions between actions at law and suits in equity abolished.
93. Parties, how designated.
94. Actions on judgments.
95. Feigned issues abolished.

Distinction between actions at law and suits in equity abolished.

SEC. 92. The distinction between actions at law and suits in equity, and the forms of all such actions and suits, heretofore existing, are abolished; and there shall be in this State, hereafter, but one form of action for the enforcement or protection of private rights and the redress of private wrongs, which shall be denominated a civil action.

Parties, how designated.

SEC. 93. In such action, the party complaining shall be known as the plaintiff, and the adverse party as the defendant.

Actions on judgments.

SEC. 94. No action shall be brought upon a judgment rendered in any Court in this State, except a Court of Trial Justice, between the same parties, without leave of the Court, for good cause shown, on notice to the adverse party; and no action on a judgment rendered by a Trial Justice shall be brought in the same County within five years after its rendition, except in case of his death, resignation, incapacity to act, or removal from the County, or that the process was not personally served on the defendant, or on all the defendants, or in case of the death of some of the parties, or where the docket or record of such judgment is or shall have been lost or destroyed.

Feigned issues abolished.

SEC. 95. Feigned issues are abolished, and, instead thereof, in the cases where the power now exists to order a feigned issue, or when a question of fact, not put in issue by the pleadings, is to be tried by a jury, an order for the trial may be made, stating distinctly and plainly the question of fact to be tried; and such order shall be the only authority necessary for a trial.

TITLE 2.—TIME OF COMMENCING CIVIL ACTIONS.

CHAPTER 1. Actions Generally.
2. For the Recovery of Real Property.
3. Other than for the Recovery of Real Property.
4. General Provisions.

CHAPTER 1.—*Actions Generally.*

SEC.
96. Repeal of existing limitations.
97. Time for commencing actions, etc.

Limitations existing repealed.

SEC. 96. The provisions of this Title shall not extend to actions already commenced, or to cases where the right of action has already accrued; but the statutes now in force shall be applicable to such cases, according to the subject of the action, and without regard to the form.

SEC. 97. Civil actions can only be commenced within the periods prescribed in this Title, after the cause of action shall have accrued, except where, in special cases, a different limitation is prescribed by statute, and in the cases mentioned in Section 96. Period of limitation, answer, &c.

But the objection that the action was not commenced within the time limited can only be taken by answer.

CHAPTER 2.—*For the Recovery of Real Property.*

SEC.
98. When the State will not sue.
99. When action cannot be brought by grantee from the State.
100. When action by the State or their grantees to be brought within twenty years.
101. Seizin within twenty years, when necessary.
102. Seizin within twenty years, when necessary in action or defence founded on title, &c.
103. Action after entry, or right of entry.
104. Possession, when presumed. Occupation, when deemed under legal title.
105. Occupation under written instrument, &c.
106. Adverse possession under written instrument, &c.
107. Premises actually occupied, held adversely.
108. Adverse possession under claim of title not written.
109. Relation of landlord and tenant, as affecting adverse possession.
110. Descent cast—effect of.
111. Persons under disability.

SEC. 98. The State will not sue any person for or in respect to any real property, or the issues or profits thereof, by reason of the right or title of the State to the same, unless— When the State will not sue.

1. Such right or title shall have accrued within forty years before any action or other proceeding for the same shall be commenced; or unless,

2. The State, or those from whom it claims, shall have received the rents and profits of such real property, or of some part thereof, within the space of forty years.

SEC. 99. No action shall be brought for, or in respect to, real property by any person claiming by virtue of letters patent or grants from the State, unless the same might have been commenced by the State as herein specified, in case such patent or grant had not been issued or made. No action to be brought by grantee from the State.

SEC 100. When letters patent or grants of real property shall have been issued or made by the State, and the same shall be declared void by the determination of a competent Court, rendered upon an allegation of a fraudulent suggestion, or concealment, or forfeiture, or mistake, or ignorance of a material fact, or wrongful detaining, or defective title, in such case an action for the recovery of the premises so conveyed may be brought either by the State, or by any subsequent patentee or grantee of the premises, his heirs or assigns, within twenty years after such determination was made, but not after that period. When actions by the State or its grantees to be brought within twenty years.

SEC. 101. No action for the recovery of real property, or for the recovery of the possession thereof, shall be maintained, unless it appear that the plaintiff, his ancestor, predecessor or grantor, was seized or possessed Seizin within twenty years, when necessary.

of the premises in question within twenty years before the commencement of such action.

Seizin within twenty years, when necessary in action or defence founded on title.

SEC. 102. No cause of action, or defence to an action, founded upon the title to real property, or to rents or services out of the same, shall be effectual, unless it appear that the person prosecuting the action or making the defence, or under whose title the action is prosecuted or the defence is made, or the ancestor, predecessor or grantor of such person, was seized or possessed of the premises in question within twenty years before the committing of the act in respect to which such action is prosecuted or defence made.

Action after entry or right of entry.

SEC. 103. No entry upon real estate shall be deemed sufficient or valid, as a claim, unless an action be commenced thereupon within one year after the making of such entry, and within twenty years from the time when the right to make such entry descended or accrued.

Possession presumed.

Occupation, when deemed under legal title.

SEC. 104. In every action for the recovery of real property, or the possession thereof, the person establishing a legal title to the premises shall be presumed to have been possessed thereof within the time required by law; and the occupation of such premises by any other person shall be deemed to have been under and in subordination to the legal title, unless it appear that such premises have been held and possessed adversely to such legal title for twenty years before the commencement of such action.

Occupation under written instrument.

SEC. 105. Whenever it shall appear that the occupant, or those under whom he claims, entered into the possession of premises under claim of title, exclusive of any other right, founding such claim upon a written instrument, as being a conveyance of the premises in question, or upon the decree or judgment of a competent Court, and that there has been a continued occupation and possession of the premises included in such instrument, decree or judgment, or of some part of such premises, under such claim, for twenty years, the premises so included shall be deemed to have been held adversely; except that where the premises so included consist of a tract divided into lots, the possession of one lot shall not be deemed a possession of any other lot of the same tract.

Adverse possession.

SEC. 106. For the purpose of constituting an adverse possession, by any person claiming a title founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied in the following cases:

1. Where it has been usually cultivated or improved;

2. Where it has been protected by a substantial enclosure;

3. Where, although not enclosed, it has been used for the supply of fuel or of fencing timber, for the purposes of husbandry or the ordinary use of the occupant;

4. Where a known farm or a single lot has been partly improved the portion of such farm or lot that may have been left not cleared or not enclosed, according to the usual course and custom of the adjoining coun-

try, shall be deemed to have been occupied for the same length of time as the part improved and cultivated.

Premises actually occupied held adversely.

SEC. 107. Where it shall appear that there has been an actual continued occupation of premises, under a claim of title, exclusive of any other right, but not founded upon a written instrument or a judgment or decree, the premises so actually occupied, and no other, shall be deemed to have been held adversely.

Adverse possession under a claim not written.

SEC. 108. For the purpose of constituting an adverse possession, by a person claiming title not founded upon a written instrument or a judgment or decree, land shall be deemed to have been possessed and occupied in the following cases only—

1. Where it has been protected by a substantial enclsoure;
2. Where it has been usually cultivated or improved.

Relation of landlord and tenant as affecting adverse possession.

SEC. 109. Whenever the relation of landlord and tenant shall have existed between any persons, the possession of the tenant shall be deemed the possession of the landlord, until the expiration of twenty years from the termination of the tenancy; or, where there has been no written lease, until the expiration of twenty years from the time of the last payment of rent, notwithstanding that such tenant may have acquired another title, or may have claimed to hold adversely to his landlord. But such presumptions shall not be made after the periods herein limited.

Descent cast—effect of.

SEC. 110. The right of a person to the possession of any real property shall not be impaired or affected by a descent being cast in consequence of the death of a person in possession of such property.

Persons under disabilities.

SEC. 111. If a person entitled to commence any action for the recovery of real property, or to make an entry or defence founded on the title to real property, or to rents or services out of the same, be, at the time such title shall first descend or accrue, either—

1. Within the age of twenty-one years; or,
2. Insane; or,
3. Imprisoned on a criminal charge, or in execution upon conviction of a criminal offence for a term less than for life. The time during which such disability shall continue shall not be deemed any portion of the time in this Chapter limited for the commencement of such action or the making of such entry or defence; but such action may be commenced, or entry or defence made, after the period of twenty years, and within ten years after the disability shall cease, or after the death of the person entitled who shall die under such disability; but such action shall not be commenced, or entry or defence made, after that period.

CHAPTER 3.—*Time of Commencing Actions other than for the Recovery of Real Property.*

SEC.
112. Limitation prescribed.
113. Twenty years.
114. Six years.
115. Three years.
116. Two years.
117. One year.
118. Actions upon a current account.
119. Actions for penalties.
120. Actions for other relief.
121. Actions by the State.

Period of limitation prescribed.

SEC. 112. The periods prescribed in Section ninety-seven for the commencement of actions other than for the recovery of real property shall be as follows—

Twenty years

SEC. 113. Within twenty years:—

1. An action upon a judgment or decree of any Court of the United States, or of any State or Territory within the United States;

2. An action upon a sealed instrument.

Six years.

SEC. 114. Within six years:—

1. An action upon a contract, obligation or liability, express or implied, excepting those mentioned in Section one hundred and thirteen;

2. An action upon a liability created by statute, other than a penalty or forfeiture;

3. An action for trespass upon real property;

4. An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property;

5. An action for criminal conversation, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated;

6. An action for relief on the ground of fraud, in cases which, heretofore, were solely cognizable by the Court of Chancery, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud.

Three years.

SEC. 115. Within three years:—

1. An action against a Sheriff, Coroner or Constable, upon a liability incurred by the doing of an act in his official capacity, and in virtue of his office, or by the omission of an official duty, including the non-payment of money collected upon an execution. But this Section shall not apply to an action for an escape;

2. An action upon a statute, for a penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the State, except where the statute imposing it prescribes a different limitation.

Two years.

SEC. 116. Within two years:—

1. An action for libel, slander, assault, battery or false imprisonment;

2. An action upon a statute, for a forfeiture or penalty to the State.

One year.

SEC. 117. Within one year:—

1. An action against a Sheriff or other officer, for the escape of a prisoner arrested or imprisoned on civil process.

Action upon a current account.

SEC. 118. In an action brought to recover a balance due upon a mutual, open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side.

Action for penalties, &c.

SEC. 119. An action upon a statute, for a penalty or forfeiture given, in whole or in part, to any person who will prosecute for the same, must be commenced within one year after the commission of the offence; and, if the action be not commenced within the year by a private party, it may be commenced within two years thereafter, in behalf of the State, by the Attorney General or the Solicitor of the Circuit where the offence was committed.

Actions for other relief.

SEC. 120. An action for relief, not hereinbefore provided for, must be commenced within ten years after cause of action shall have accrued.

Actions by the State.

SEC. 121. The limitations prescribed in this Chapter shall apply to actions brought in the name of the State, or for its benefit, in the same manner as to actions by private parties.

CHAPTER 4.—*General Provisions as to the Time of Commencing Actions.*

SEC.
122. When action deemed commenced
123. Exception—defendant out of State.
124. Exception as to person under disabilities.
125. Death of person entitled before limitation expires
126 Suits by aliens
127. Where judgment reversed.
128. Stay of action by injunction, &c.
129 Disability must exist when right accrued.
130. Two or more disabilities.
131. This Title, when not to apply.
132. The like.
133 New promise must be in writing.

When action deemed commenced.

SEC. 122. An action is commenced as to each defendant when the summons is served on him, or on a co-defendant, who is a joint contractor, or otherwise united in interest with him. An attempt to commence an action is deemed equivalent to the commencement thereof, within the meaning of this Title, when the summons is delivered, with the intent that it shall be actually served, to the Sheriff or other officer of the County in which the defendants or one of them usually or last resided; or, if a corporation be defendant, to the Sheriff or other officer of the County in which such corporation was established by law, or where its general business was transacted, or where it kept an office for the transaction of business.

Exception—defendant out of State.

SEC. 123. If, when the cause of action shall accrue against any person, he shall be out of the State, such action may be commenced within the terms herein respectively limited, after the return of such person into

this State; and if, after such cause of action shall have accrued, such person shall depart from and reside out of this State, or remain continuously absent therefrom for the space of one year or more, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action.

Exception as to persons under disabilities.

SEC. 124. If a person entitled to bring an action mentioned in the last Chapter, except for a penalty or forfeiture, or against a Sheriff or other officer, for an escape, be, at the time the cause of action accrued, either—

1. Within the age of twenty-one years; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal Court for a term less than his natural life.

The time of such disability is not a part of the time limited for the commencement of the action; except that the period within which the action must be brought cannot be extended more than five years by any such disability, except infancy; nor can it be so extended in any case longer than one year after the disability ceases.

Death of person entitled before limitation expires.

SEC. 125. If a person entitled to bring an action die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced by his representatives, after the expiration of that time, and within one year from his death. If a person against whom an action may be brought die before the expiration of the time limited for the commencement thereof, and the cause of action survive, an action may be commenced against his executors or administrators after the expiration of that time, and within one year after the issuing of letters testamentary or of administration.

Actions by aliens.

SEC. 126. When a person shall be an alien subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be part of the period limited for the commencement of the action.

Where judgment reversed.

SEC. 127. If an action shall be commenced within the time prescribed therefor, and a judgment therein be reversed on appeal, the plaintiff, or, if he die and the cause of action survive, his heirs or representatives, may commence a new action within one year after the reversal.

Time of stay by injunction, &c.

SEC. 128. When the commencement of an action shall be stayed by injunction or statutory prohibition, the time of the continuance of the injunction or prohibition shall not be part of the time limited for the commencement of the action.

Disability—not available.

SEC. 129. No person shall avail himself of a disability, unless it existed when his right of action accrued.

Co-existing disabilities.

SEC. 130. When two or more disabilities shall co-exist at the time the right of action accrues, the limitation shall not attach until they all be removed.

SEC. 131. This Title shall not affect actions to enforce the payment of bills, notes, or other evidences of debt, issued by moneyed corporations, or issued or put in circulation as money. Bills, notes, &c.

SEC. 132. This Title shall not affect actions against Directors or stockholders of a moneyed corporation, or banking associations, to recover a penalty or forfeiture imposed, or to enforce a liability created by law; but such actions must be brought within six years after the discovery by the aggrieved party of the facts upon which the penalty or forfeiture attached, or the liability was created. This title not to affect actions against Directors or Stockholders.

SEC. 133. No acknowledgment or promise shall be sufficient evidence of a new or continuing contract, whereby to take the case out of the operation of this Title, unless the same be contained in some writing signed by the party to be charged thereby; but this Section shall not alter the effect of any payment of principal or interest. Acknowledgment or new promise must be made in writing.

TITLE 3.—PARTIES TO CIVIL ACTIONS.

SEC.
134. Party in interest to sue. Action by grantee of land held adversely.
135. Assignment of thing in action.
136. Actions by executor, trustee, &c.
137. Actions by and against married women.
138. Infants, actions by and against.
139. Guardian, how appointed.
140. Who may be plaintiffs.
141. Who may be defendants.
142. One or more may sue or defend for all.
143. One action against the different parties to bills and notes.
144. Action, when not to abate.
145. Court to decide controversy, &c. Interpleading.

SEC. 134. Every action must be prosecuted in the name of the real party in interest, except as otherwise provided in Section one hundred and thirty-six; but this Section shall not be deemed to authorize the assignment of a thing in action not arising out of contract. But an action may be maintained by a grantee of land in the name of the grantor, or his or her heirs or legal representatives, when the grant or grants are void by reason of the actual possession of a person claiming under a title adverse to that of the grantor at the time of the delivery of the grant, and the plaintiff shall be allowed to prove the facts to bring the case within this provision. Action to be by party in interest. Action by grantee of land held adversely.

SEC. 135. In the case of an assignment of a thing in action, the action by the assignee shall be without prejudice to any set-off or other defence existing at the time of, or before notice of, the assignment; but this Section shall not apply to a negotiable promissory note or bill of exchange, transferred in good faith, and upon good consideration, before due. Assignment of a thing in action.

SEC. 136. An executor or administrator, a trustee of an express trust, or a person expressly authorized by statute, may sue, without joining with him the person for whose benefit the action is prosecuted. A trustee of an express trust, within the meaning of this Section, shall be construed to include a person with whom or in whose name a contract is made for the benefit of another. Action by executor, trustee, &c.

Action by and against a married woman.

SEC. 137. When a married woman is a party, her husband must be joined with her, except that—

1. When the action concerns her separate property, she may sue or be sued alone: *Provided*, That neither her husband nor his property shall be liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were sole;

2. When the action is between herself and her husband, she may sue or be sued alone; and in no case need she prosecute or defend by a guardian or next friend.

Infant to appear by guardian.

SEC. 138. When an infant is a party, he must appear by guardian, who may be appointed by the Court in which the action is prosecuted, or by a Judge thereof, or a Probate Judge.

Appointment of guardian

SEC. 139. The guardian shall be appointed as follows:

1. When the infant is plaintiff, upon the application of the infant, if he be of the age of fourteen years; or, if under that age, upon the application of his general or testamentary guardian, if he has any, or of a relative or friend of the infant; if made by a relative or friend of an infant, notice thereof must first be given to such guardian, if he has one; if he has none, then to the person with whom such infant resides;

2. When the infant is defendant, upon the application of the infant, if he be of the age of fourteen years, and apply within twenty days after service of the summons. If he be under the age of fourteen, or neglect so to apply, then upon the application of any other party to the action, or of a relative or friend of the infant, after notice of such application being first given to the general or testamentary guardian of such infant, if he has one within this State; if he has none, then to the infant himself, if over fourteen years of age, and within the State; or, if under that age, and within the State, to the person with whom such infant resides. And, in actions for the partition of real property, or for the foreclosure of a mortgage or other instrument, when an infant defendant resides out of this State, or is temporarily absent therefrom, the plaintiff may apply to the Court in which the action is pending, at any stated or special term thereof, and will be entitled to an order designating some suitable person to be the guardian for the infant defendant, for the purposes of the action, unless the infant defendant, or some one in his behalf, within a number of days after the service of a copy of the order, which number of days shall be in the said order specified, shall procure to be appointed a guardian for the said infant, and the Court shall give special directions in the order for the manner of the service thereof, which may be upon the infant.

And, in case an infant defendant, having an interest in the event of the action, shall reside in any State with which there shall not be a regular communication by mail, on such fact satisfactorily appearing to the Court, the Court may appoint a guardian *ad litem* for such absent in-

fant party, for the purpose of protecting the right of such infant in said action, and on such guardian *ad litem* process, pleadings and notices in the action may be served in the like manner as upon a party residing in this State.

Who to be plaintiffs.

SEC. 140. All persons having an interest in the subject of the action, and in obtaining the relief demanded, may be joined as plaintiffs, except as otherwise provided in this Title.

Who to be defendant.

SEC. 141. Any person may be made a defendant who has or claims an interest in the controversy adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein; and in an action to recover the possession of real estate, the landlord and tenant thereof may be joined as defendants; and any person claiming title or a right of possession to real estate may be made parties plaintiff or defendant, as the case may require, to any such actions.

Parties to be joined, &c.

SEC. 142. Of the parties to the action, those who are united in interest must be joined as plaintiffs or defendants; but if the consent of any one who should have been joined as plaintiff cannot be obtained, he may be made a defendant, the reason thereof being stated in the complaint; and when the question is one of a common or general interest of many persons, or when the parties are very numerous and it may be impracticable to bring them all before the Court, one or more may sue or defend for the benefit of the whole.

One action against different parties, &c.

SEC. 143. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, may all, or any of them, be included in the same action, at the option of the plaintiff.

Court may determine a controversy, &c.

SEC. 144. No action shall abate by the death, marriage, or other disability of a party, or by the transfer of any interest therein, if the cause of action survive or continue. In case of death, marriage, or other disability of a party, the Court, on motion, at any time within one year thereafter, or afterwards, on a supplemental complaint, may allow the action to be continued by or against his representative or successor in interest. In case of any other transfer of interest, the action shall be continued in the name of the original party, or the Court may allow the person to whom the transfer is made to be substituted in the action.

After a verdict shall be rendered in any action for a wrong, such action shall not abate by the death of any party, but the case shall proceed thereafter in the same manner as in cases where the cause of action now survives by law

At any time after the death, marriage, or other disability of the party plaintiff, the Court in which an action is pending, upon notice to such persons as it may direct, and upon application of any person aggrieved, may, in its discretion, order that the action be deemed abated, unless the same be continued by the proper parties, within a time to be fixed by

the Court, not less than six months nor exceeding one year from the granting of the order.

Of existing suits. Action, when not to abate.

SEC. 145. The Court may determine any controversy between the parties before it, when it can be done without prejudice to the rights of others, or by saving their rights; but when a complete determination of the controversy cannot be had without the presence of other parties, the Court must cause them to be brought in. And when, in an action for the recovery of real or personal property, a person not a party to the action, but having an interest in the subject thereof, makes application to the Court to be made a party, it may order him to be brought in by the proper amendment.

Interpleader.

A defendant against whom an action is pending upon a contract, or for specific, real or personal property, may, at any time before answer, upon affidavit that a person not a party to the action, and without collusion by him, makes against him a demand for the same debt or property, upon due notice to such person and the adverse party, apply to the Court for an order to substitute such person in his place, and discharge him from liability to either party, on his depositing in Court the amount of the debt, or delivering the property, or its value, to such person as the Court may direct; and the Court may, in its discretion, make the order.

TITLE 4. OF THE PLACE OF TRIAL OF CIVIL ACTIONS.

SEC.
146. Actions to be tried where subject-matter situated.
147. Actions to be tried where cause of action arose.
148. Actions to be tried where the parties reside.
149. Changing place of trial.

Actions to be tried where subject matter situated.

SEC. 146. Actions for the following causes must be tried in the County in which the subject of the action, or some part thereof, is situated, subject to the power of the Court to change the place of trial, in the cases provided by statute:—

1. For the recovery of real property, or of an estate or interest therein, or for the determination in any form of such right or interest, and for injuries to real property;

2. For the partition of real property;

3. For the foreclosure of a mortgage of real property;

4. For the recovery of personal property distrained for any cause.

Actions to be tried where cause of action arose.

SEC. 147. Actions for the following causes must be tried in the County where the cause, or some part thereof, arose, subject to the like power of the Court to change the place of trial, in the cases provided by statute:—

1. For the recovery of a penalty or forfeiture imposed by statute, except that, when it is imposed for an offence committed on a lake, river, or other stream of water, situated in two or more Counties, the action may be brought in any County bordering on such lake, river or stream, and opposite to the place where the offence was committed;

2. Against a public officer, or person specially appointed to execute his duties, for an act done by him in virtue of his office, or against a person who, by his command or in his aid, shall do anything touching the duties of such officer.

SEC. 148. In all other cases, the action shall be tried in the County in which the parties, or any of them, shall reside at the commencement of the action; or, if none of the parties shall reside in the State, the same may be tried in any County which the plaintiff shall designate in his complaint, subject, however, to the power of the Court to change the place of trial, in the cases provided by statute. Actions to be tried where parties reside

SEC. 149. If the County designated for that purpose in the complaint be not the proper County, the action may, notwithstanding, be tried therein, unless the defendant, before the time for answering expire, demand, in writing, that the trial be had in the proper County, and the place of trial be thereupon changed by consent of parties, or by order of the Court, as is provided in this Section. Change of place of trial.

The Court may change the place of trial in the following cases:—

1. When the County designated for that purpose in the complaint is not the proper County;

2. When there is reason to believe that an impartial trial cannot be had therein;

3. When the convenience of witnesses and the ends of justice would be promoted by the change.

When the place of trial is changed, all other proceedings shall be had in the County to which the place of trial is changed, unless otherwise provided by the consent of the parties, in writing, duly filed, or order of the Court; and the papers shall be filed or transferred accordingly.

TITLE 5.—MANNER OF COMMENCING CIVIL ACTIONS.

SEC.
150. Actions, how commenced.
151. Summons, requisites of.
152. Notice to be inserted in summons.
153. Complaint need not be served with summons.
154. Defendant unreasonably defending
155. Notice of *lis pendens*.
156. Service of summons.
157. Return of summons.
158. Publication of summons.
159. Proceedings when part only of defendants served—partners
160. When service by publication complete.
161. Proof of service.
162. When jurisdiction of action acquired.

SEC. 150. Civil actions in the Courts of Record of this State shall be commenced by service of a summons. Action, how commenced.

SEC. 151. The summons shall be subscribed by the plaintiff or his attorney, and directed to the defendant, and shall require him to answer the complaint, and serve a copy of his answer on the person whose name is subscribed to the summons, at a place within the State, to be therein specified, in which there is a post office, within twenty days after the service of the summons, exclusive of the day of service. Summons—requisites of.

Summons—notice to be inserted in.

SEC. 152. The plaintiff shall also insert in the summons a notice, in substance, as follows:—

1. In an action arising on contract, for the recovery of money only, that he will take judgment for a sum specified therein, if the defendant fail to answer the complaint in twenty days after the service of the summons:

2. In other actions, that if the defendant shall fail to answer the complaint within twenty days after the service of the summons, the plaintiff will apply to the Court for the relief demanded in the complaint.

Service of complaint.

SEC. 153. A copy of the complaint need not be served with the summons. In such case, the summons must state where the complaint is or will be filed; and if the defendant, within twenty days thereafter, causes notice of appearance to be given, and, in person or by attorney, demands, in writing, a copy of the complaint, specifying a place within the State where it may be served, a copy thereof must, within twenty days thereafter, be served accordingly; and, after such service, the defendant has twenty days to answer; but only one copy need be served on the same attorney.

Notice of, no personal claim

SEC. 154. In the case of a defendant against whom no personal claim is made, the plaintiff may deliver to such defendant, with the summons, a notice subscribed by the plaintiff or his attorney, setting forth the general object of the action, a brief description of the property affected by it, if it affects specific real or personal property, and that no personal claim is made against such defendant, in which case no copy of the complaint need be served on such defendant, unless, within the time for answering, he shall, in writing, demand the same. If a defendant on whom such notice is served unreasonably defend the action, he shall pay costs to the plaintiff.

Notice of *lis pendens.*

SEC. 155. In an action affecting the title to real property, the plaintiff, at the time of filing the complaint, or at any time afterwards, or whenever a warrant of attachment, under Chapter 4 of Title 7, Part 2, of this Code of Procedure, shall be issued, or at any time afterwards, the plaintiff, or a defendant, when he sets up an affirmative cause of action in his answer and demands substantive relief, at the time of filing his answer, or at any time afterwards, if the same be intended to affect real estate, may file with Clerk of each County in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and the description of the property in that County affected thereby; and if the action be for the foreclosure of a mortgage, such notice must be filed twenty days before judgment, and must contain the date of the mortgage, the parties thereto, and the time and place of recording the same. From the time of filing only shall the pendency of the action be constructive notice to a purchaser or incumbrancer of the property affected thereby; and every person whose conveyance or incumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or incumbrancer, and shall be bound, by all pro-

ceedings taken after the filing of such notice, to the same extent as if he were made a party to the action. For the purposes of this Section, an action shall be deemed to be pending from the time of filing such notice: *Provided, however,* That such notice shall be of no avail, unless it shall be followed by the first publication of the summons, or an order therefor, or by the personal service thereof on a defendant within sixty days after such filing. And the Court in which the said action was commenced may, in its discretion, at any time after the action shall be settled, discontinued or abated, as is provided in Section number one hundred and forty-four, on application of any person aggrieved, and on good cause shown, and on such notice as shall be directed or approved by the Court, order the notice authorized by this Section to be cancelled of record by the Clerk of any County in whose office the same may have been filed or recorded; and such cancellation shall be made by an endorsement to that effect on the margin of the record, which shall refer to the order, and for which the Clerk shall be entitled to a fee of twenty-five cents.

Summons—by whom served.

SEC. 156. The summons may be served by the Sheriff of the County where the defendant may be found, or by any other person not a party to the action. The service shall be made, and the summons returned, with proof of the service, to the person whose name is subscribed thereto, with all reasonable diligence. The person subscribing the summons may, at his option, by an endorsement on the summons, fix a time for the service thereof, and the service shall then be made accordingly.

Service of summons.

SEC. 157. The summons shall be served by delivering a copy thereof as follows:—

1. If the suit be against a corporation, to the president or other head of the corporation, secretary, cashier, treasurer, a director, or managing agent thereof; but such service can be made in respect to a foreign corporation only when it has property within this State, or the cause of action arose therein, or where such service shall be made within this State personally upon the president, cashier, treasurer, or secretary thereof;

2. If against a minor under the age of fourteen years, to such minor personally, and also to his father, mother or guardian; or, if there be none within the State, then to any person having the care and control of such minor, or with whom he shall reside, or in whose service he shall be employed;

3. If against a person judicially declared to be of unsound mind, or incapable of conducting his own affairs in consequence of habitual drunkenness, and for whom a committee or guardian has been appointed, to such committee or guardian and to the defendant personally;

4. In all other cases, to the defendant personally.

Service by publication.

SEC. 158. Where the person on whom the service of the summons is to be made cannot, after due diligence, be found within the State, and that fact appears by affidavit to the satisfaction of the Court or a Judge thereof, or of the Probate Judge of the County where the trial is to be had, and it in like manner appears that a cause of action exists against

the defendant in respect to whom the service is to be made, or that he is a proper party to an action relating to real property in this State, such Court or Judge may grant an order that the service be made by the publication of a summons in either of the following cases:—

1. Where the defendant is a foreign corporation, has property within the State, or the cause of action arose therein;

2. Where the defendant, being a resident of this State, has departed therefrom, with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with the like intent;

3. Where he is not a resident of this State, but has property therein, and the Court has jurisdiction of the subject of the action;

4. Where the subject of the action is real or personal property in this State, and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists, wholly or partly, in excluding the defendant from any interest or lien therein;

5. Where the action is for divorce, in the cases prescribed by law.

The order must direct the publication to be made in two newspapers, to be designated as most likely to give notice to the person to be served, and for such length of time as may be deemed reasonable, not less than once a week for six weeks. In case of publication, the Court or Judge must also direct a copy of the summons and complaint to be forthwith deposited in the post office, directed to the person to be served, at his place of residence, unless it appear that such residence is neither known to the party making the application, nor can with reasonable diligence be ascertained by him. When publication is ordered, personal service of a copy of the summons and complaint, out of the State, is equivalent to publication and deposit in the post office.

The defendant against whom publication is ordered, or his representatives, on application and sufficient cause shown at any time before judgment, must be allowed to defend the action; and, except in an action for divorce, the defendant against whom publication is ordered, or his representatives, may, in like manner, upon good cause shown, be allowed to defend after judgment, or at any time within one year after notice thereof, and within seven years after its rendition, on such terms as may be just; and if the defence be successful, and the judgment, or any part thereof, have been collected, or otherwise enforced, such restitution may thereupon be compelled as the Court directs; but the title to property sold under such judgment to a purchaser in good faith shall not be thereby affected. And in all cases where publication is made, the complaint must be first filed, and the summons, as published, must state the time and place of such filing.

In actions for the foreclosure of mortgages on real estate, already instituted, or hereafter to be instituted, if any party or parties having any interest in or lien upon such mortgaged premises are unknown to the plaintiff, and the residence of such party or parties cannot, with reasonable diligence, be ascertained by him, and such fact shall be made to appear, by affidavit, to the Court, or to a Judge thereof, where the trial

is to be had, such Court or Judge may grant an order that the summons be served on such unknown party or parties by publishing the same for six weeks, once in each week successively, in a newspaper printed in the County where the premises are situated, which publication shall be equivalent to a personal service on such unknown party or parties.

Joint and several debtors —partners.

2 McC., 310; 4 McC., 30; 6 Rich., 390.

SEC. 159. Where the action is against two or more defendants, and the summons is served on one or more of them, but not on all of them, the plaintiff may proceed as follows:—

1. If the action be against defendants jointly indebted upon contract, he may proceed against the defendant served, unless the Court otherwise direct: and, if he recover judgment, it may be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all and the separate property of the defendants served, and, if they are subject to arrest, against the persons of the defendants served; or,

2. If the action be against defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants;

3. If all the defendants have been served, judgment may be taken against any or either of them severally, where the plaintiff would be entitled to judgment against such defendant or defendants, if the action had been against them or any of them alone;

4. If the name of one or more partners shall, for any cause, have been omitted in any action in which judgment shall have passed against the defendants named in the summons, and such omission shall not have been pleaded in such action, the plaintiff, in case the judgment therein shall remain unsatisfied, may, by action, recover of such partner separately, upon proving his joint liability, notwithstanding he may not have been named in the original action; but the plaintiff shall have satisfaction of only one judgment rendered for the same cause of action.

When service complete.

SEC. 160. In the cases mentioned in Section 158, the service of the summons shall be deemed complete at the expiration of the time prescribed by the order for publication.

Proof of service.

SEC. 161. Proof of the service of the summons, and of the complaint or notice, if any, accompanying the same, must be as follows:—

1. If served by the Sheriff, his certificate thereof; or,

2. If by any other person, his affidavit thereof; or,

3. In case of publication, the affidavit of the printer, or his foreman, or principal clerk, showing the same, and an affidavit of a deposit of a copy of the summons in the post office, as required by law, if the same shall have been deposited; or,

4. The written admission of the defendant.

In case of service otherwise than by publication, the certificate, affidavit, or admission, must state the time and place of the service.

Jurisdiction. SEC. 162. From the time of the service of the summons in a civil action, or the allowance of a provisional remedy, the Court is deemed to have acquired jurisdiction, and to have control of all the subsequent proceedings. A voluntary appearance of a defendant is equivalent to personal service of the summons upon him.

Appearance.

TITLE 6.—OF THE PLEADINGS IN CIVIL ACTIONS.

CHAPTER 1. The Complaint.
2. The Demurrer.
3. The Answer.
4. The Reply.
5. General Rules of Pleading.
6. Mistakes and Amendments.

CHAPTER 1.—*The Complaint.*

SEC.
163. Forms of pleading.
164. Complaint.
165. Complaint—what to contain.

Of forms of pleading. SEC. 163. All the forms of pleading heretofore existing are abolished; and, hereafter, the forms of pleading in civil actions in Courts of record, and the rules by which the sufficiency of the pleadings is to be determined, are those prescribed by this Code of Procedure.

Complaint. SEC. 164. The first pleading on the part of the plaintiff is the complaint.

Complaint—what to contain. SEC. 165. The complaint shall contain:—

1. The title of the cause, specifying the name of the Court in which the action is brought, the name of the County in which the plaintiff desires the trial to be had, and the names of the parties to the action—plaintiff and defendant;

2. A plain and concise statement of the facts constituting a cause of action, without unnecessary repetition;

3. A demand of the relief to which the plaintiff supposes himself entitled. If the recovery of money be demanded, the amount thereof shall be stated.

CHAPTER 2.—*The Demurrer.*

SEC.
166. Defendant to demur or answer.
167. When the defendant may demur.
168. Demurrer, what to specify.
169. How to proceed if complaint be amended
170. Objection not appearing on complaint.
171. Objection, when waived.

Defendant to demur or answer. SEC. 166. The only pleading on the part of the defendant is either a demurrer or an answer. It must be served within twenty days after the service of the copy of the complaint.

SEC. 167. The defendant may demur to the complaint when it shall appear upon the face thereof, either— When defendant may demur.

1. That the Court has no jurisdiction of the person of the defendant, or the subject of the action; or,

2. That the plaintiff has not legal capacity to sue; or,

3. That there is another action pending between the same parties, for the same cause; or,

4. That there is a defect of parties, plaintiff or defendant; or,

5. That several causes of action have been improperly united; or,

6. That the complaint does not state facts sufficient to constitute a cause of action.

SEC. 168. The demurrer shall distinctly specify the grounds of objection to the complaint. Unless it do so, it may be disregarded. It may be taken to the whole complaint or to any of the alleged causes of action stated therein. The demurrer must specify grounds of objection.

SEC. 169. If the complaint be amended, a copy thereof must be served on the defendant, who must answer it within twenty days, or the plaintiff, upon filing with the Clerk, on due proof of the service, and of the defendant's omission, may proceed to obtain judgment, as provided by Section 269; but where an application to the Court for judgment is necessary, eight days' notice thereof must be given to the defendant. How to proceed if complaint amended.

SEC. 170. When any of the matters enumerated in Section one hundred and sixty-seven do not appear upon the face of the complaint, the objection may be taken by answer. Objection not appearing on complaint.

SEC. 171. If no such objection be taken, either by demurrer or answer, the defendant shall be deemed to have waived the same, excepting only the objection to the jurisdiction of the Court, and the objection that the complaint does not state facts sufficient to constitute a cause of action. Objection—when deemed waived.

CHAPTER 3.—*The Answer.*

SEC.
172. Answer, what to contain.
173. Counter claim. Several defences.
174. Demurrer and answer, when allowed.
175. Sham and irrelevant defences to be stricken out.

SEC. 172. The answer of the defendant must contain— Answer, what to contain.

1. A general or specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief;

2. A statement of any new matter constituting a defence or counter claim, in ordinary and concise language, without repetition.

Counter-claim. Several defences.

SEC. 173. The counter claim mentioned in the last Section must be one existing in favor of a defendant, and against a plaintiff, between whom a several judgment might be had in the action, and arising out of one of the following causes of action—

1. A cause of action arising out of the contract or transaction set forth in the complaint as the foundation of the plaintiff's claim, or connected with the subject of the action;

2. In an action arising on contract, any other cause of action arising also on contract, and existing at the commencement of the action.

The defendant may set forth by answer as many defences and counter claims as he may have, whether they be such as have been heretofore denominated legal or equitable, or both. They must each be separately stated, and refer to the causes of action which they are intended to answer, in such manner that they may be intelligibly distinguished.

Demurrer and answer.

SEC. 174. The defendant may demur to one or more of several causes of action stated in the complaint, and answer the residue.

Sham and irrelevant defences to be stricken out.

SEC. 175. Sham and irrelevant answers and defences may be stricken out on motion, and upon such terms as the Court may, in their discretion, impose.

CHAPTER 4.—*The Reply.*

SEC.
176. Reply. Demurrer to answer.
177. Motion for judgment upon answer.
178. Demurrer to reply.

Reply.

SEC. 176. When the answer contains new matter constituting a counter claim, the plaintiff may, within twenty days, reply to such new matter, denying generally or specifically each allegation controverted by him, or any knowledge or information thereof sufficient to form a belief; and he may allege, in ordinary and concise language, without repetition, any new matter not inconsistent with the complaint, constituting a defence to such new matter in the answer; and the plaintiff may, in all cases, demur to an answer containing new matter, where, upon its face, it does not constitute a counter claim or defence; and the plaintiff may demur to one or more of such defences or counter claims, and reply to the residue of the counter claims.

Demurrer to answer.

And in other cases, where an answer contains new matter constituting a defence by way of avoidance, the Court may, in its discretion, on the defendant's motion, require a reply to such new matter; and in that case the reply shall be subject to the same rules as a reply to a counter claim.

SEC. 177. If the answer contain a statement of new matter constituting a counter claim, and the plaintiff fail to reply or demur thereto within the time prescribed by law, the defendant may move, on a notice of not less than ten days, for such judgment as he is entitled to upon such statement; and, if the case require it, a writ of inquiry of damages may be issued. **Motion for judgment on answer.**

SEC. 178. If a reply of the plaintiff to any defence set up by the answer of the defendant be insufficient, the defendant may demur thereto, and shall state the grounds thereof. **Demurrer to reply.**

CHAPTER 5.—*General Rules of Pleading.*

SEC.
179. Pleadings to be subscribed and verified.
180. Pleadings how verified.
181. How to state an account in pleading.
182. Pleadings to be liberally construed.
183. Irrelevant or redundant matter to be stricken out, and indefinite matter made more definite.
184. Judgment, how to be pleaded.
185. Conditions precedent, how to be pleaded.
186. Private statutes, how to be pleaded.
187. Libel and slander, how stated in complaint.
188. Answer in such cases.
189. Answer in actions to recover property distrained for damage.
190. What causes of action may be joined.
191. Allegation not denied, when to be deemed true.

SEC. 179. Every pleading in a Court of Record must be subscribed by the party or his attorney; and when any pleading is verified, every subsequent pleading, except a demurrer, must be verified also. **Pleadings to be subscribed and verified.**

SEC. 180. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to those matters stated on information and belief, and, as to those matters, he believes it to be true; and must be by the affidavit of the party, or, if there be several parties united in interest, and pleading together, by one at least of such parties acquainted with the facts, if such party be within the County where the attorney resides, and capable of making the affidavit. The affidavit may also be made by the agent or attorney, if the action or defence be founded upon a written instrument for the payment of money only, and such instrument be in the possession of the agent or attorney, or if all the material allegations of the pleading be within the personal knowledge of the agent or attorney. When the pleading is verified by any other person than the party, he shall set forth in the affidavit his knowledge, or the grounds of his belief on the subject, and the reasons why it is not made by the party. When a corporation is a party, the verification may be made by any officer thereof; and when the State, or any officer thereof in its behalf, is a party, the verification may be made by any person acquainted with the facts. The verification may be omitted when an admission of the truth of the allegation might subject the party to prosecution for felony. And no pleading can be used in a criminal prosecution against the party, as a proof of a fact admitted or alleged in such pleading: *Provided,* That the verification of any pleading **Pleadings—how verified.**

in any Court of Record in this State may be omitted in all cases where the party called upon to verify would be privileged from testifying as a witness to the truth of any matter denied by such pleading.

Items of account. Particulars.

SEC. 181. It shall not be necessary for a party to set forth in a pleading the items of an account therein alleged; but he shall deliver to the adverse party, within ten days after a demand therefor in writing, a copy of the account, which, if the pleading is verified, must be verified by his own oath, or that of his agent or attorney, if within the personal knowledge of such agent or attorney, to the effect that he believes it to be true, or be precluded from giving evidence thereof. The Court, or a Judge thereof, may order a "further account," when the one delivered is defective, and the Court may, in all cases, order a bill of particulars of the claim of either party to be furnished.

Pleadings—how to be construed.

SEC. 182. In the construction of a pleading for the purpose of determining its effect, its allegations shall be liberally construed, with a view of substantial justice between the parties.

Irrelevant or redundant

Indefinite or uncertain.

SEC. 183. If irrelevant or redundant matter be inserted in a pleading, it may be stricken out, on motion of any person aggrieved thereby. And when the allegations of a pleading are so indefinite or uncertain that the precise nature of the charge or defence is not apparent, the Court may require the pleading to be made definite and certain by amendment.

Judgments—how impleaded.

SEC. 184. In pleading a judgment, or other determination of a Court or officer of special jurisdiction, it shall not be necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading shall be bound to establish on the trial the facts conferring jurisdiction.

Conditions precedent—how pleaded.

SEC. 185. In pleading the performance of conditions precedent in a contract, it shall not be necessary to state the facts showing such performance; but it may be stated generally that the party duly performed all the conditions on his part; and if such allegation be controverted, the party pleading shall be bound to establish, on the trial, the facts showing such performance. In an action or defence founded upon an instrument for the payment of money only, it shall be sufficient for a party to give a copy of the instrument, and to state that there is due to him thereon from the adverse party a specified sum, which he claims.

Instrument for payment of money only

Private statutes, how to be pleaded.

SEC. 186. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title and the day of its passage, and the Court shall thereupon take judicial notice thereof.

SEC. 187. In an action for libel or slander, it shall not be necessary to state, in the complaint, any extrinsic facts, for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose; but it shall be sufficient to state generally that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff shall be bound to establish, on trial, that it was so published or spoken.

Of libel and slander, how stated in complaint.

SEC. 188. In the actions mentioned in the last Section, the defendant may, in his answer, allege both the truth of the matter charged as defamatory and any mitigating circumstances, to reduce the amount of damages; and, whether he prove the justification or not, he may give, in evidence, the mitigating circumstances.

Answer in such cases.

SEC. 189. In an action to recover the possession of property distrained doing damage, an answer that the defendant, or person by whose command he acted, was lawfully possessed of the real property upon which the distress was made, and that the property distrained was at the time doing damage thereon, shall be good, without setting forth the title to such real property.

In action to recover property that is distrained for damage, answer need not set forth title.

SEC. 190. The plaintiff may unite, in the same complaint, several causes of action, whether they be such as have been heretofore denominated legal or equitable, or both, where they all arise out of—

What causes of action may be joined in the same complaint.

1. The same transaction, or transactions connected with the same subject of action; or,

2. Contract, express or implied; or,

3. Injuries with or without force, to person and property, or either; or,

4. Injuries to character; or,

5. Claims to recover real property, with or without damages for the withholding thereof, and the rents and profits of the same; or,

6. Claims to recover personal property, with or without damages for the withholding thereof; or,

7. Claims against a trustee, by virtue of a contract, or by operation of law.

But the causes of action, so united, must all belong to one of these classes, and, except in actions for the foreclosure of mortgages, must affect all the parties to the action, and not require different places of trial, and must be separately stated. In actions to foreclose mortgages, the Court shall have power to adjudge and direct the payment, by the mortgagor, of any residue of the mortgage debt that may remain unsatisfied after a sale of the mortgaged premises, in cases in which the mortgagor shall be personally liable for the debt secured by such mortgage; and if the mortgage debt be secured by the covenant or obligation of any person other than the mortgagor, the plaintiff may make such person a party to the action, and the Court may adjudge payment of the residue of such debt remaining unsatisfied after a sale of the mortgaged premises against such other person, and may enforce such judgment as in other cases.

Allegation not denied—when to be deemed true.

SEC. 191. Every material allegation of the complaint, not controverted by the answer, as prescribed in Section 172, and every material allegation of new matter in the answer, constituting a counter claim, not controverted by the reply, as prescribed in Section 176, shall, for purposes of the action, be taken as true. But the allegation of new matter in the answer, not relating to a counter claim, or of new matter in a reply, is to be deemed controverted by the adverse party as upon a direct denial or avoidance, as the case may require.

CHAPTER 6.—*Mistakes in Pleadings and Amendments.*

SEC.
192. Material variances, how provided for.
193. Immaterial variances, how provided for.
194. What not to be deemed a variance.
195. Amendments of course and after demurrer.
196. Amendments by the Court.
197. Court may give relief in case of mistake.
198. Suing a party by a fictitious name.
199. No error or defect to be regarded unless it affect substantial rights.
200. Supplemental complaint, answer and reply.

Material variance.

SEC. 192. No variance between the allegation in a pleading and the proof shall be deemed material unless it have actually misled the adverse party, to his prejudice, in maintaining his action or defence, upon the merits. Whenever it shall be alleged that a party has been so misled, that fact shall be proved to the satisfaction of the Court, and in what respect he has been misled; and thereupon the Court may order the pleading to be amended, upon such terms as shall be just.

Immaterial variance.

SEC. 193. Where the variance is not material, as provided in the last Section, the Court may direct the fact to be found according to the evidence, or may order an immediate amendment without costs.

Failure of proof.

SEC. 194. Where, however, the allegation of the causes of action or defence to which the proof is directed is not proved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance, within the last two Sections, but a failure of proof.

Amendments of course and after allowance of demurrer.

SEC. 195. Any pleading may be once amended by the party of course, without costs, and without prejudice to the proceedings already had, at any time within twenty days after it is served, or at any time before the period for answering it expires; or it can be so amended at any time within twenty days after the service of the answer or demurrer to such pleading, unless it be made to appear to the Court that it was done for the purposes of delay, and the plaintiff or defendant will thereby lose the benefit of a circuit or term for which the cause is or may be noticed; and if it appear to the Court that such amendment was made for such purpose, the same may be stricken out, and such terms imposed as to the Court may seem just. In such case a copy of the amended pleading must be served on the adverse party. After the decision of a demurrer, either at a general or special term, the Court may, in its discretion, if it appear that the demurrer was interposed in good faith, allow the party to

plead over upon such terms as may be just. If the demurrer be allowed for the cause mentioned in the fifth sub-division of Section one hundred and sixty-seven, the Court may, in its discretion, and upon such terms as may be just, order the action to be divided into as many actions as may be necessary to the proper determination of the causes of action therein mentioned.

Amendment by order.

SEC. 196. The Court may, before or after judgment, in furtherance of justice, and on such terms as may be proper, amend any pleading, process or proceeding, by adding or striking out the name of any party; or by correcting a mistake in the name of a party, or a mistake in any other respect; or by inserting other allegations material to the case; or, when the amendment does not change substantially the claim or defence, by conforming the pleading or proceeding to the facts proved.

Relief in cases of mistake.

SEC. 197. The Court may likewise, in its discretion, and upon such terms as may be just, allow an answer or reply to be made, or other act to be done, after the time limited by this Code of Procedure, or, by an order, enlarge such time; and may also, in its discretion, and upon such terms as may be just, at any time within one year after notice thereof, relieve a party from a judgment, order, or other proceeding, taken against him through his mistake, inadvertence, surprise, or excusable neglect, and may supply an omission in any proceeding; and whenever any proceeding taken by a party fails to conform in any respect to the provisions of this Code of Procedure, the Court may, in like manner, and upon like terms, permit an amendment of such proceeding, so as to make it conformable thereto.

Fictitious name.

SEC. 198. When the plaintiff shall be ignorant of the name of a defendant, such defendant may be designated in any pleading or proceeding by any name; and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

Error of defects to be disregarded.

SEC. 199. The Court shall, in every stage of action, disregard any error or defect in the pleadings or proceedings, which shall not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect.

Supplemental pleading.

SEC. 200. The plaintiff and defendant respectively may be allowed, on motion, to make a supplemental complaint, answer or reply, alleging facts material to the case occurring after the former complaint, answer or reply, or of which the party was ignorant when his former pleading was made, and either party may, by leave of the Court, in any pending or future action, set up by a supplemental pleading the judgment or decree of any Court of competent jurisdiction rendered since the commencement of such action, determining the matters in controversy in said action, or any part thereof, and if said judgment be set up by the plaintiff, the same shall be without prejudice to any provisional remedy theretofore issued or other proceedings had in said action on his behalf.

TITLE 7. OF THE PROVISIONAL REMEDIES IN CIVIL ACTIONS.

CHAPTER 1. Arrest and Bail.
2. Claim and Delivery of Personal Property.
3. Injunction.
4. Attachment.
5. Provisional Remedies.

CHAPTER 1.—*Arrest and Bail.*

SEC.
201. No person to be arrested in a civil action except as prescribed.
202. Arrest in civil actions, in what cases.
203. Order for arrest, by whom to be made.
204. Affidavit to obtain order for arrest. To what actions this Chapter applies.
205. Security by plaintiff before obtaining order for arrest.
206. Order for arrest, when it may be made, and its form.
207. Original affidavit and order to be delivered to Sheriff, and copy to be delivered to defendant.
208. Arrest, how made.
209. Defendant to be discharged on giving bail or making a deposit.
210. Bail, how given.
211. Surrender of defendant.
212. The like.
213. Bail, how proceeded against.
214. Bail, how exonerated.
215. Delivery of undertaking of bail to plaintiff, and its acceptance or rejection by him.
216. Notice of justification. New bail.
217. Qualification of bail.
218. Justification of bail.
219. Allowance of bail.
220. Deposit in lieu of bail.
221. Payment of deposit into Court.
222. Substituting bail for deposit.
223. Deposit, how disposed of after judgment in the action.
224. Sheriff, when liable as bail.
225. Proceedings on judgment against Sheriff.
226. Bail liable to Sheriff.
227. Vacating order of arrest or reducing bail.
228. Affidavits on motion to vacate order of arrest or reduce bail.

No person to be arrested except as prescribed.

SEC. 201. No person shall be arrested in a civil action, except as prescribed by this Code of Procedure; but the same shall not apply to proceedings for contempt.

In what cases.

SEC. 202. The defendant may be arrested, as hereinafter prescribed, in the following cases—

1. In an action for the recovery of damages, on a cause of action not arising out of contract, where the defendant is not resident of the State, or is about to remove therefrom, or where the action is for an injury to person or character, or for injuring, or for wrongfully taking, detaining or converting property;

2. In an action for a fine or penalty, or for money received, or property embezzled or fraudulently misapplied, by a public officer, or by an attorney, solicitor or counsellor, or by an officer or agent of a corporation or banking association, in the course of his employment as such, or by any factor, agent, broker or other person in a fiduciary capacity, or for any misconduct or neglect in office, or in a professional employment;

3. In an action to recover the possession of personal property unjustly detained, where the property, or any part thereof, has been concealed, removed or disposed of, so that it cannot be found or taken by the Sheriff or Constable, and with the intent that it should not be so found or taken, or with the intent to deprive the plaintiff of the benefit thereof;

4. When the defendant has been guilty of a fraud in contracting the debt, or incurring the obligation for which the action is brought, or in concealing or disposing of the property for the taking, detention or con-

version of which the action is brought, or when the action is brought to recover damages for fraud or deceit;

5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors.

But no female shall be arrested in any action, except for a willful injury to person, character or property.

Order for arrest, by whom made.

SEC. 203. An order for the arrest of the defendant must be obtained from a Judge, Trial Justice, or Clerk of the Court, in which, or before whom, the action is brought.

Affidavit to obtain order. To what action this chapter applies.

SEC. 204. The order may be made where it shall appear to the proper officer by the affidavit of the plaintiff, or of any other person, that a sufficient cause of action exists, and that the case, from the facts stated, is one of those mentioned in Section 202.

Security by plaintiff before order of arrest.

SEC. 205. Before making the order, the Judge, or other officer, shall require a written undertaking on the part of the plaintiff, with or without sureties, to the effect that, if the defendant recover judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the arrest, not exceeding the sum specified in the undertaking, which shall be at least one hundred dollars. If the undertaking be executed by the plaintiff, without sureties, he shall annex thereto an affidavit that he is a resident and householder or freeholder within the State, and worth double the sum specified in the undertaking, over all his debts and liabilities.

Order, when made, and its form. Vacating order. Time to answer.

SEC. 206. The order may be made to accompany the summons, or at any time afterwards before judgment. It shall require the Sheriff or Constable of the County where the defendant may be found, forthwith to arrest him, and hold him to bail in a specified sum, and to return the order, at a place and time therein mentioned, to the plaintiff or attorney by whom it shall be subscribed or indorsed.

But said order of arrest shall be of no avail, and shall be vacated or set aside on motion, unless the same is served upon the defendant, as provided by law, before the docketing of any judgment in the action; and the defendant shall have twenty days, after the service of the order of arrest, in which to answer the complaint.

Affidavit and order to be delivered to the Sheriff or Constable, and a copy to the defendant.

SEC. 207 The affidavit and order of arrest shall be delivered to the Sheriff or Constable, who, upon arresting the defendant, shall deliver to him a copy thereof.

Arrest, how made.

SEC. 208. The Sheriff or Constable shall execute the order by arresting the defendant and keeping him in custody until discharged by law, and may call the power of the County to his aid in the execution of the arrest, as in case of process.

Defendant to be discharged on bail or deposit.

SEC. 209. The defendant, at any time before execution, shall be discharged from the arrest, either upon giving bail or upon depositing the amount mentioned in the order of arrest as provided in this Chapter.

Bail, how to be given.

SEC. 210. The defendant may give bail by causing a written undertaking to be executed by two or more sufficient bail, stating their places of residence and occupations, to the effect that the defendant shall, at all times, render himself amenable to the process of the Court, during the pendency of the action, and to such as may be issued to enforce the judgment therein; or, if he be arrested for the cause mentioned in the third sub-division of Section two hundred and two, and undertaking to the same effect as that provided by Section two hundred and thirty-four.

Surrender of defendant.

SEC. 211. At any time before a failure to comply with the undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the Sheriff of the County where he was arrested, in the following manner:—

1. A certified copy of the undertaking of the bail shall be delivered to the Sheriff or Constable, who shall detain the defendant in his custody thereon, as upon an order of arrest, and shall, by a certificate in writing, acknowledge the surrender;

2. Upon the production of a copy of the undertaking and Sheriff's or Constable's certificate, a Judge or Clerk of the Court may, upon a notice to the plaintiff of eight days, with a copy of the certificate, order that the bail be exonerated; and on filing the order and the papers used on said application, they shall be exonerated accordingly. But this Section shall not apply to an arrest for cause mentioned in sub-division three of Section two hundred and two, so as to discharge the bail from an undertaking given to the effect provided by Section two hundred and thirty-four.

Surrender of defendant.

SEC. 212. For the purpose of surrendering the defendant, the bail, at any time or place, before they are finally charged, may themselves arrest him, or, by a written authority, indorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

Bail, how to be proceeded against.

SEC. 213. In case of failure to comply with the undertaking, the bail may be proceeded against by action only.

Bail, how exonerated.

SEC. 214. The bail may be exonerated, either by the death of the defendant, or his imprisonment in a State prison, or by his legal discharge from the obligation to render himself amenable to the process, or by his surrender to the Sheriff or Constable of the County where he was arrested, in execution thereof, within twenty days after the commencement of the action against the bail, or within such further time as may be granted by the Court.

Delivery of undertaking to plaintiff, and its acceptance or rejection by him.

SEC. 215. Within the time limited for that purpose, the Sheriff or Constable shall deliver the order of arrest to the plaintiff, or attorney by whom it is subscribed, with his return endorsed, and a certified copy of the undertaking of the bail. The plaintiff, within ten days thereafter, may serve upon the Sheriff or Constable a notice that he does not accept the bail, or he shall be deemed to have accepted it, and the Sheriff or Constable shall be exonerated from liability.

Notice of justification.

SEC. 216. On the receipt of such notice, the Sheriff or Constable, or defendant may, within ten days thereafter, give to the plaintiff or attorney by whom the order of arrest is subscribed, notice of the justification of the same or other bail (specifying the places of residence and occupation of the latter) before a Judge or Clerk of the Court, at a specified time and place; the time to be not less than five nor more than ten days thereafter. In case other bail be given, there shall be a new undertaking, in the form prescribed in Section 210.

New bail.

Qualification of bail.

SEC. 217. The qualification of bail must be as follows:—

1. Each of them must be a resident, and householder or freeholder, within the State;

2. They must each be worth the amount specified in the order of arrest, exclusive of property exempt from execution; but the Judge or Clerk of the Court, on justification, may allow more than two bail to justify severally in amounts less than that expressed in the order, if the whole justification be equivalent to that of two sufficient bail.

Justification of bail.

SEC. 218. For the purpose of justification, each of the bail shall attend before the Judge or Clerk of the Court at the time and place mentioned in the notice, and may be examined on oath, on the part of the plaintiff, touching his sufficiency, in such manner as the Judge, or Clerk of the Court, in his discretion, may think proper. The examination shall be reduced to writing, and subscribed by the bail, if required by the plaintiff.

Allowance of bail.

SEC. 219. If the Judge, or Clerk of the Court, find the bail sufficient, he shall annex the examination to the undertaking, endorse his allowance thereon, and cause them to be filed in the office of the Clerk; and the Sheriff shall, thereupon, be exonerated from liability.

Deposit with the Sheriff.

SEC. 220. The defendant may, at the time of his arrest, instead of giving bail, deposit with the Sheriff or Constable the amount mentioned in the order. The Sheriff shall thereupon give the defendant a certificate of the deposit and the defendant shall be discharged out of custody.

Payment of deposit into Court.

SEC. 221. The Sheriff or Constable shall, within four days after the deposit, pay the same into Court, and shall take from the officer receiving the same two certificates of such payment, the one of which he shall deliver to the plaintiff, and the other to the defendant. For any default in

making such payment, the same proceedings may be had on the official bond of the Sheriff or Constable, to collect the sum deposited, as in other cases of delinquency.

Substituting bail for deposit.

SEC. 222. If money be deposited, as provided in the last two Sections, bail may be given and justified upon notice, as prescribed in Section 216, any time before judgment: and thereupon the Judge, before whom the justification is had, shall direct, in the order of allowance, that the money deposited be refunded by the Sheriff or Constable to the defendant, and it shall be refunded accordingly.

Deposit, how disposed of.

SEC. 223. Where money shall have been so deposited, if it remain on deposit at the time of an order or judgment for the payment of money to the plaintiff, the Clerk shall, under the direction of the Court, apply the same the satisfaction thereof, and, after satisfying the judgment, shall refund the surplus, if any, to the defendant. If the judgment be in favor of the defendant, the Clerk shall refund to him the whole sum deposited and remaining unapplied.

The Sheriff or Constable, when liable as bail.

SEC. 224. If, after being arrested, the defendant escape or be rescued, or bail be not given or justified, or a deposit be not made instead thereof, the Sheriff or Constable shall himself be liable as bail. But he may discharge himself from such liability by the giving and justification of bail, as provided in Sections 216, 217, 218 and 219, at any time before process against the person of the defendant to enforce an order or judgment in the action.

Proceedings on judgment against sheriff.

SEC. 225. If a judgment be recovered against the Sheriff or Constable, upon his liability as bail, and an execution thereon be returned unsatisfied, in whole or in part, the same proceedings may be had on the official bond of the Sheriff or Constable, to collect the deficiency, as in other cases of delinquency.

Bail liable to Sheriff.

SEC. 226. The bail taken upon the arrest shall, unless they justify, or other bail be given or justified, be liable to the Sheriff or Constable by action for damages which he may sustain by reason of such omission.

Vacating order of arrest or reducing bail.

SEC. 227. A defendant arrested may, at any time before judgment, apply, on motion, to vacate the order of arrest, or to reduce the amount of bail.

Affidavits on motion.

SEC. 228. If the motion be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits, or other proofs, in addition to those on which the order of arrest was made.

CHAPTER 2.—*Claim and Delivery of Personal Property.*

SEC.
229. Claim and delivery of personal property.
230. Affidavit and its requisites.
231. Requisition to Sheriff to take and deliver the property.
232. Security by plaintiff.
233. Exception to sureties.
234. Defendant, when entitled to re-delivery.
235. Justification of defendant's sureties.
236. Qualification and justification of sureties
237. Property, how taken when concealed in building or inclosure.
238. Property, how kept.
239. Claim of property by third person.
240. Notice and affidavit, when and where to be filed.

Delivery of personal property.

SEC. 229. The plaintiff, in an action to recover the possession of personal property, may, at the time of issuing the summons, or at any time before answer, claim the immediate delivery of such property, as provided in this Chapter.

Affidavit—its requisites.

SEC. 230. Where a delivery is claimed, an affidavit must be made by the plaintiff, or by some one in his behalf, showing—

1. That the plaintiff is the owner of the property claimed, (particularly describing it,) or is lawfully entitled to the possession thereof, by virtue of a special property therein, the facts in respect to which shall be set forth;

2. That the property is wrongfully detained by the defendant;

3. The alleged cause of the detention thereof, according to his best knowledge, information and belief;

4. That the same has not been taken for a tax, assessment, or fine, pursuant to a statute; or seized under an execution or attachment against the property of the plaintiff; or, if so seized, that it is, by statute, exempt from such seizure; and,

5. The actual value of the property.

Requisition to Sheriff to take and deliver the property.

SEC. 231. The plaintiff may, thereupon, by an indorsement in writing upon the affidavit, require the Sheriff of the County where the property claimed may be, to take the same from the defendant and deliver it to the plaintiff.

Security by plaintiff.

SEC. 232. Upon the receipt of the affidavit and notice, with a written undertaking executed by one or more sufficient sureties, approved by the Sheriff, to the effect that they are bound in double the value of the property, as stated in the affidavit for the prosecution of the action, for the return of the property to the defendant, if return thereof be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the plaintiff, the Sheriff shall forthwith take the property described in the affidavit, if it be in the possession of the defendant or his agent, and retain it in his custody. He shall also, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking, by delivering the same to him personally, if he can be found, or to his agent, from whose possession the property is taken; or, if neither can be found, by leaving them at the usual place of abode of either, with some person of suitable age and discretion.

Exception to sureties.

SEC. 233. The defendant may, within three days after the service of a copy of the affidavit and undertaking, give notice to the Sheriff that he excepts to the sufficiency of the sureties. If he fail to do so, he shall be deemed to have waived all objection to them. When the defendant excepts, the sureties shall justify on notice, in like manner as upon bail on arrest. And the Sheriff shall be responsible for the sufficiency of the sureties, until the objection to them is either waived, as above provided, or until they shall justify, or new sureties shall be substituted and justify. If the defendant except to the sureties, he cannot reclaim the property, as provided in the next Section.

Defendant, when entitled to re-delivery

SEC. 234. At any time before the delivery of the property to the plaintiff, the defendant may, if he do not except to the sureties of the plaintiff, require the return thereof, upon giving to the Sheriff a written undertaking, executed by two or more sufficient sureties, to the effect that they are bound in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to him of such sum as may, for any cause, be recovered against the defendant. If a return of the property be not so required, within three days after the taking and service of notice to the defendant, it shall be delivered to the plaintiff, except as provided in Section two hundred and thirty-nine.

Justification of defendant's sureties.

SEC. 235. The defendant's sureties, upon a notice to the plaintiff of not less than two or more than six days, shall justify before a Judge, Clerk of the Court, or Trial Justice, in the same manner as upon bail on arrest. Upon such justification, the Sheriff shall deliver the property to the defendant. The Sheriff shall be responsible for the defendant's sureties until they justify, or until justification is completed or expressly waived, and may retain the property until that time; but if they, or others in their place, fail to justify at the time and place appointed, he shall deliver the property to the plaintiff.

Qualifications and justification of sureties.

SEC. 236. The qualifications of sureties and their justification shall be as are prescribed by Sections two hundred and seventeen and two hundred and eighteen in respect to bail upon an order of arrest.

Property—how to be taken when concealed in a building or inclosure.

SEC. 237. If the property, or any part thereof, be concealed in a building or enclosure, the Sheriff shall publicly demand its delivery. If it be not delivered, he shall cause the building or enclosure to be broken open, and take the property into his possession; and, if necessary, he may call to his aid the power of his County.

Property—how kept.

SEC. 238. When the Sheriff shall have taken property, as in this Chapter provided, he shall keep it in a secure place, and deliver it to the party entitled thereto, upon receiving his lawful fees for taking, and his necessary expenses for keeping, the same.

SEC. 239. If the property taken be claimed by any other person than the defendant or his agent, and such person shall make affidavit of his title thereto, and right to the possession thereof, stating the grounds of such right and title, and serve the same upon the Sheriff, the Sheriff shall not be bound to keep the property, or deliver it to the plaintiff, unless the plaintiff, on demand of him or his agent, shall indemnify the Sheriff against such claim, by an undertaking, executed by two sufficient sureties, accompanied by their affidavits that they are each worth double the value of the property, as specified in the affidavit of the plaintiff, and freeholders and householders of the County. And no claim to such property, by any other person than the defendant or his agent, shall be valid against the Sheriff, unless made as aforesaid; and, notwithstanding such claim, when so made, he may retain the property a reasonable time to demand such indemnity. Claim of property by third person.

SEC. 240. The Sheriff shall file the notice and affidavit, with his proceedings thereon, with the Clerk of the Court in which the action is pending, within twenty days after taking the property mentioned therein. Notice and affidavit, when and where to be filed.

CHAPTER 3.—*Injunction.*

SEC.
241. Writ of injunction abolished, and order substituted.
242. Temporary injunction, in what cases granted.
243. At what time it may be granted. Copy affidavit to be served.
244. Injunction after answer.
245. Security upon injunction. Damages, how ascertained.
246. Order to show cause why injunction should not be granted.
247. Security upon injunction to suspend business of corporation.
248. Motion to vacate or modify injunction.
249. Affidavits on motion.

SEC. 241. An order of injunction may be made by the Circuit Court in which the action is brought, or by a Judge thereof, and in the absence from the Circuit, or inability, from any cause, of a Judge thereof, by a Judge of any other Circuit, or a Jastice of the Supreme Court. Injunction by order.

SEC. 242. [1] Where it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which, during the litigation, would produce injury to the plaintiff; or [2] when, during the litigation, it shall appear that the defendant is doing, or threatens, or is about to do, or procuring or suffering some act to be done in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act. [3] And where, during the pendency of an action, it shall appear by affidavit that the defendant threatens, or is about to remove or dispose of his property, with intent to defraud his creditors, a temporary injunction may be granted to restrain such removal or disposition. Injunction, in what cases

Injunction, at what time granted. Copy affidavits to be served.

SEC. 243. The injunction may be granted at the time of commencing the action, or at any time afterwards, before judgment, upon its appearing satisfactorily to the Court or Judge, by the affidavit of the plaintiff, or of any other person, that sufficient grounds exist therefor. A copy of the affidavit must be served with the injunction.

Injunction after answer.

SEC. 244. An injunction shall not be allowed after the defendant shall have answered, unless upon notice or upon an order to show cause; but in such case the defendant may be restrained until the decision of the Court or Judge granting or refusing the injunction.

Security upon injunction.

SEC. 245 When no provision is made by statute as to security upon an injunction, the Court or Judge shall require a written undertaking on the part of the plaintiff, with or without sureties, to the effect that the plaintiff will pay to the party enjoined such damages, not exceeding an amount to be specified, as he may sustain by reason of the injunction, if the Court shall finally decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference, or otherwise, as the Court shall direct.

Damages.

Order to show cause.

SEC. 246. If the Court or Judge deem it proper that the defendant, or any of several defendants, should be heard before granting the injunction, an order may be made requiring to be shown, at a specified time and place, why the injunction should not be granted; and the defendant may, in the meantime, be restrained.

Restraint in meantime.

Security upon injunction to suspend business of corporation.

SEC. 247. An injunction to suspend the general and ordinary business of a corporation shall not be granted except by the Court or a Judge thereof. Nor shall it be granted without due notice of the application therefor, to the proper officers of the corporation, except where the State is a party to the proceeding, and except in proceedings to enforce the liability of stockholders in corporations and associations for banking purposes, after the first day of January, one thousand eight hundred and seventy, as such proceedings are or shall be provided by law, unless the plaintiff shall give a written undertaking, executed by two sufficient sureties, to be approved by the Court or Judge, to the effect that the plaintiff will pay all damages, not exceeding the sum to be mentioned in the undertaking, which such corporation may sustain by reason of the injunction, if the Court shall finally decide that the plaintiff was not entitled thereto. The damages may be ascertained by a reference, or otherwise, as the Court shall direct.

Motion to vacate or modify injunction.

SEC. 248. If the injunction be granted by the Court or a Judge thereof, without notice, the defendant, at any time before the trial, may apply, upon notice to the Court, or a Judge thereof, in which the action is brought, to vacate or modify the same. The application may be made upon the complaints and the affidavits on which the injunction was granted, or upon affidavits on the part of the defendant, with or without the answer.

SEC. 249. If the application be made upon affidavits on the part of the defendant, but not otherwise, the plaintiff may oppose the same by affidavits or other proofs, in addition to those on which the injunction was granted. Affidavits on motion.

CHAPTER 4.—*Attachment.*

SEC.
250. Property of foreign corporations, and of non-resident or absconding or concealed defendants, may be attached.
251. Attachment, by whom granted.
252. In what cases attachment may be issued. Affidavits to be filed.
253. Security on obtaining attachment.
254. Attachment, to whom directed, and what to require.
255. Property to be attached.
256. Sheriff's duties in case of seizure.
257. Proceedings in case of perishable property or vessels.
258. Interest in corporations or associations liable to attachment.
259. Attachment, how executed on property incapable of manual delivery.
260. Certificate of defendant's interest to be furnished.
261. Judgment, how satisfied.
262. When action to recover notes, &c., of defendant, may be prosecuted by the plaintiff in the action in which the attachment issued.
263. Bond to Sheriff on attachment, how disposed of on judgment for defendant.
264. Discharge of attachment, and return of property or its proceeds to defendant, on his appearance in the action.
265. Undertaking on the part of the defendant.
266. When Sheriff to return attachment, with his proceedings thereon.

SEC. 250. In an action arising on contract for the recovery of money only, or in an action for the wrongful conversion of personal property, against a corporation created by or under the laws of any other State, Government or country, or against a defendant who is not a resident of this State, or against a defendant who has absconded or concealed himself, or whenever any person or corporation is about to remove any of his or its property from this State, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete any of his or its property, with intent to defraud creditors, as hereinafter mentioned, the plaintiff, at the time of issuing the summons, or any time afterwards, may have the property of such defendant or corporation attached, in the manner hereinafter prescribed, as a security for the satisfaction of such judgment as the plaintiff may recover; and, for the purposes of this Section, an action shall be deemed commenced when the summons is issued: *Provided, however,* That personal service of such summons shall be made, or publication thereof commenced within thirty days. Property of foreign corporations and of non-resident or absconding or of concealed defendants to be attached.

SEC. 251. A warrant of attachment must be obtained from a Judge or Clerk of the Court, or Trial Justice, in which or before whom the action is brought, or from a Circuit Judge. Warrant, by whom granted.

SEC. 252. The warrant may be issued whenever it shall appear by affidavit that a cause of action exists against such defendant, specifying the amount of the claim and the grounds thereof, and that the defendant is either a foreign corporation, or not a resident of this State, or has departed therefrom with intent to defraud his creditors or to avoid the service of a summons, or keep himself concealed therein with the like intent, or that such corporation or person has removed or is about to remove any of his or its property from this State, with intent to defraud his or its credi- In what cases a warrant may be issued—affidavits to be filed

tors, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete any of his or its property, with the like intent, whether such defendant be a resident of this State or not.

It shall be the duty of the plaintiff procuring such warrant, within ten days after the issuing thereof, to cause the affidavits on which the same was granted to be filed in the office of the Clerk of the Court of Common Pleas, or with the Trial Justice, in which, or before whom, the action is to be tried.

Of security on obtaining warrant.

SEC. 253. Before issuing the warrant, the Judge, Clerk or Trial Justice shall require a written undertaking, on the part of the plaintiff, with sufficient surety, to the effect that if the defendant recover judgment, or the attachment be set aside by order of the Court, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, which shall be at least two hundred and fifty dollars, except in case of a warrant issued by a Trial Justice, when it shall be at least twenty-five dollars.

Warrant, to whom directed and what to require.

SEC. 254. The warrant shall be directed to any Sheriff or Constable of any County in which property of such defendant may be, and shall require him to attach and safely keep all the property of such defendant within his County, or so much thereof as may be sufficient to satisfy the plaintiff's demand, together with costs and expenses, the amount of which must be stated in conformity with the complaint, together with costs and expenses. Several warrants may be issued at the same time to the Sheriffs or Constables of different Counties.

Property to be attached. Warrant of attachment—how levied on real estate.

SEC. 255. The Sheriff or Constable to whom such warrant is directed and delivered shall immediately attach all the real estate of such debtor, and all his personal estate, including money and bank notes, except such real and personal estate as is exempt from attachment, levy or sale by the Constitution; and shall take into his custody all books of account, vouchers and papers relating to the property, debts, credits and effects of such debtor, together with all evidences of his title to real estate, which he shall safely keep, to be disposed of as hereinafter directed.

When real estate is attached, a true and attested copy of such attachment, together with a description of the real estate attached, shall be, by the officer serving the same, delivered to the party whose real estate is attached, or left at his last and usual place of abode; and the officer making such service shall also leave a true and attested copy of such attachment, together with a description of the real estate so attached, in the office where, by law, a deed of such real estate is required to be recorded; and, if the party whose estate is attached does not reside in this State, then such copy shall be delivered to his tenant, agent or attorney, if any be known; and, if no such agent, tenant or attorney be known, then a copy of such warrant of attachment, with the officer's return thereon, lodged in the office where, by law, a deed of such real estate ought to be recorded, shall be deemed sufficient service. It shall be the duty of the

Clerk or Register of the office wherein said warrant of attachment is required to be lodged, to receive the same, and enter in a book kept for that purpose the names of the parties, the date of the warrant of attachment, the sum demanded, and the officer's return thereon. Said attachment shall be a lien, subject to all prior liens, and bind the real estate attached from the date of lodgment: *Provided*, That all attachments lodged upon the same day shall take rank together.

Of the duties of Sheriffs or Constables in case of seizure.

SEC. 256. He shall, immediately on making such seizure, with the assistance of two disinterested freeholders, make a just and true inventory of all the property so seized, and of the books, vouchers and papers taken into custody, stating therein the estimated value of the several articles of personal property, and enumerating such of them as are perishable, which inventory, after being signed by the Sheriff and appraisers, shall, within ten days after such seizure, be returned to the officer who issued the warrant; and the Sheriff or Constable shall, under the direction of such officer, collect, receive and take into his possession all debts, credits and effects of such debtor, and commence such suits, and take such legal proceedings, either in his own name or in the name of such debtor, as may be necessary for that purpose, prosecute and discontinue the same at such times and on such terms as the Court may direct. The property so seized, or the proceeds of such as shall have been sold, and debts collected, shall be kept to answer any judgment which may be obtained in such action.

Proceedings in case of perishable property or vessels.

SEC. 257. If any property so seized shall be perishable, or if any part of it be claimed by any other person than such defendant, or if any part of it consist of a vessel, or of any share or interest therein, the same proceedings shall be had in all respects as are provided by law upon attachments against absent debtors.

Interest in corporations, or in associations liable to attachment.

SEC. 258. The rights or shares which such defendant may have in the stock of any association or corporation, together with the interest and profits thereon, and all other property in this State of such defendant, except that exempt from attachment by the Constitution, shall be liable to be attached and levied upon, and sold to satisfy the judgment and execution.

Attachment not executed on property incapable of manual delivery.

SEC. 259. The execution of the attachment upon any such rights, shares, or any debts or other property incapable of manual delivery to the Sheriff or Constable, shall be made by leaving a certified copy of the warrant of attachment with the President or other head of the association or corporation, or the Secretary, Cashier, or managing agent thereof, or with the debtor or individual holding such property, with a notice showing the property levied on.

Certificate of defendant's interest to be furnished.

SEC. 260. Whenever the Sheriff or Constable shall, with a warrant of attachment, or execution against the defendant, apply to such officer, debtor, or individual, for the purpose of attaching, or levying upon such property, such officer, debtor, or individual shall furnish him with a cer-

tificate under his hand, designating the number of rights or shares of the defendant in the stock of such association or corporation, with any dividend or incumbrance thereon, or the amount and description of the property held by such association, corporation, or individual, for the benefit of or debt owing to the defendant. If such officer, debtor, or individual refuse to do so, he may be required by the Court or Judge to attend before him, and be examined on oath, concerning the same, and obedience to such order may be enforced by attachment.

Judgment, how satisfied.

SEC. 261. In case judgment be entered for the plaintiff in such action, the Sheriff or Constable shall satisfy the same out of the property attached by him, if it shall be sufficient for that purpose—

1. By paying over to such plaintiff the proceeds of all sales of perishable property, and of any vessel, or share or interest in any vessel, sold by him, or of any debts or credits collected by him, or so much as shall be necessary to satisfy such judgment;

2. If any balance remain due, and an execution shall have been issued on such judgment, he shall proceed to sell, under such execution, so much of the attached property, real or personal, except as provided in sub-division four of this Section, as may be necessary to satisfy the balance, if enough for that purpose shall remain in his hands; and in case of the sale of any rights or shares in the stock of a corporation or association, the Sheriff or Constable shall execute to the purchaser a certificate of sale thereof, and the purchaser shall thereupon have all the rights and privileges in respect thereto which were had by such defendant;

3. If any of the attached property belonging to the defendant shall have passed out of the hands of the Sheriff or Constable without having been sold or converted into money, such Sheriff or Constable shall repossess himself of the same, and for that purpose shall have all the authority which he had to seize the same under the attachment; and any person who shall willfully conceal or withhold such property from the Sheriff or Constable, shall be liable to double damages, at the suit of the party injured;

4 Until the judgment against the defendant shall be paid, the Sheriff or Constable may proceed to collect the notes and other evidences of debt, and the debts that may have been seized or attached under the warrant of attachment, and to prosecute any bond he may have taken in the course of such proceedings, and apply the proceeds thereof to the payment of the judgment.

At the expiration of six months from the docketing of the judgment, the Court shall have power, upon the petition of the plaintiff, accompanied by an affidavit setting forth fully all the proceedings which have been had by the Sheriff or Constable since the service of the attachment, the property attached, and the disposition thereof, and also the affidavit of the Sheriff or Constable that he has used diligence and endeavored to collect the evidences of debt in his hands so attached, and that there remains uncollected of the same any part or portion thereof, to order the Sheriff or Constable to sell the same, upon such terms and

in such manner as shall be deemed proper. Notice of such application shall be given to the defendant or his attorney, if the defendant shall have appeared in the action. In case the summons has not been personally served on the defendant, the Court shall make such rule or order, as to the service of notice and the time of service, as shall be deemed just.

When the judgment and all costs of the proceedings shall have been paid, the Sheriff or Constable, upon reasonable demand, shall deliver over to the defendant the residue of the attached property, or the proceeds thereof.

When action for recovery of notes, &c., of defendant may be prosecuted by the plaintiff in the action in which the attachment issued.

SEC. 262. The actions herein authorized to be brought by the Sheriff or Constable may be prosecuted by the plaintiff, or under his direction, upon the delivery by him to the Sheriff or Constable of an undertaking executed by two sufficient sureties, to the effect that the plaintiff will indemnify the Sheriff or Constable from all damages, costs and expenses on account thereof, not exceeding two hundred and fifty dollars in any one action. Such sureties shall, in all cases, when required by the Sheriff or Constable, justify by making an affidavit that each is a householder, and worth double the amount of the penalty of the bond, over and above all demands and liabilities.

Bond to the Sheriff or Constable on an attachment—how disposed of on a judgment for the defendant.

SEC. 263. If the foreign corporation, or absent or absconding or concealed defendant, recover judgment against the plaintiff in such action, any bond taken by the Sheriff or Constable, except such as are mentioned in the last Section, all the proceeds of sales and moneys collected by him, and all the property attached remaining in his hands, shall be delivered by him to the defendant, or his agent, on request, and the warrant shall be discharged, and the property released therefrom.

Discharge of attachment and return of property or its proceeds to defendant on appearance in action

SEC. 264. Whenever the defendant shall have appeared in such action, he may apply to the officer who issued the attachment, or to the Court, for an order to discharge the same; and, if the same be granted, all the proceeds of sales and moneys collected by him, and all the property attached remaining in his hands, shall be delivered or paid by him to the defendant or his agent, and released from the attachment.

And where there is more than one defendant, and several property of either of the defendants has been seized by virtue of the order of attachment, the defendant whose several property has been seized may apply to the officer who issued the attachment for relief under this Section.

Undertaking on the part of the defendant—discharge of attachment.

SEC. 265. Upon such application, the defendant shall deliver to the Court or officer an undertaking executed by at least two sureties, who are resident and freeholders or householders in this State, approved by such Court or officer, to the effect that such sureties will, on demand, pay to the plaintiff the amount of judgment that may be recovered against the defendant in the action, not exceeding the sum specified in the undertaking,

which shall be at least double the amount claimed by the plaintiff in his complaint. If it shall appear by affidavit that the property attached be less than the amount claimed by the plaintiff, the Court, or officer issuing the attachment, may order the same to be appraised, and the amount of the undertaking shall then be double the amount so appraised. And, in all cases, the defendant may move to discharge the attachment, as in the case of other provisional remedies.

And where there is more than one defendant, and several property of either of the defendants has been seized by virtue of the order of attachment, the defendant whose several property has been seized may deliver to the Court or officer an undertaking, in accordance with the provisions of this Section, to the effect that he will, on demand, pay to the plaintiff the amount of judgment that may be recovered against such defendant. And all the provisions of this Section applicable to such undertaking shall be applied thereto.

When Sheriff to return warrant with proceedings.

SEC. 266. When the warrant shall be fully executed or discharged, the Sheriff or Constable shall return the same, with his proceedings thereon, to the Court in which the action was brought.

CHAPTER 5.—*Provisional Remedies.*

SEC.
267. Powers of Court as to receivers, deposit of money, &c., in Court, and other provisional remedies. Judgment for sum admitted due.

Powers of Court as to receivers, deposit of money, &c., in Court, and other provisional remedies.

SEC. 267. A receiver may be appointed:—

1. Before judgment, on the application of either party, when he establishes an apparent right to property which is the subject of the action, and which is in the possession of an adverse party, and the property, or its rents and profits, are in danger of being lost, or materially injured or impaired; except in cases where judgment upon failure to answer may be had without application to the Court;

2. After judgment, to carry the judgment into effect;

3. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or when an execution has been returned unsatisfied, and the judgment debtor refuses to apply his property in satisfaction of the judgment;

4. In the cases provided in this Code of Procedure, and by statute, when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights; and, in like cases, of the property within this State of foreign corporations. Receivers of the property within this State of foreign or other corporations shall be allowed such commissions as may be fixed by the Court appointing them, not exceeding five per cent. on the amount received and disbursed by them;

5. In such other cases as are now provided by law, or may be in accordance with the existing practice, except as otherwise provided in this Code of Procedure.

When it is admitted, by the pleading or examination of a party, that he has in his possession, or under his control, any money or other thing capable of delivery, which, being the subject of litigation, is held by him as trustee, for another party, or which belongs or is due to another party, the Court may order the same to be deposited in Court, or delivered to such party, with or without security, subject to the further direction of the Court.

Whenever, in the exercise of its authority, a Court shall have ordered the deposit, delivery or conveyance of money or other property, and the order is disobeyed, the Court, besides punishing the disobedience as for contempt, may make an order requiring the Sheriff or Constable to take the money or property, and deposit, deliver, or convey it, in conformity with the direction of the Court.

Judgment for sum admitted due.

When the answer of the defendant expressly, or by not denying, admits part of the plaintiff's claim to be just, the Court, on motion, may order such defendant to satisfy that part of the claim, and may enforce the order as it enforces a judgment or provisional remedy.

TITLE 8.—OF THE TRIAL AND JUDGMENT IN CIVIL ACTIONS.

CHAPTER 1. Judgment upon Failure to Answer, &c.
2. Issues, and the Mode of Trial.
3. Trial by Jury.
4. Trial by the Court.
5. Trial by Referees.
6. The Manner of Entering Judgment.

CHAPTER 1.—*Judgment upon Failure to Answer, &c.*

SEC.
268. Judgment defined.
269. Judgment on failure of defendant to answer, or for excess over counter claim.
270. Judgment on frivolous demurrer, answer or reply.

Judgment defined.

SEC. 268. A judgment is the final determination of the rights of the parties in the action.

Judgment on failure of defendant to answer, or for excess over counter claim

SEC. 269. Judgment may be had, if the defendant fail to answer the complaint, as follows:

1. In any action arising on contract for the recovery of money only, the plaintiff may file with the Clerk proof of personal service of the summons and complaint on one or more of the defendants, or of the summons, according to the provisions of Section one hundred and fifty-three, and that no answer has been received. The Clerk shall thereupon enter judgment for the amount mentioned in the summons, against the defendant, or defendants, or against one or more of several defendants, in the cases provided for in Section one hundred and fifty-nine. But if the complaint be not sworn to, and such action is on an instrument for the payment of money only, the Clerk, on its production to him, shall assess the amount due

to the plaintiff thereon; and in other cases shall ascertain the amount which the plaintiff is entitled to recover in such action, from his examination, under oath, or other proof, and enter the judgment for the amount so assessed or ascertained. In case the defendant give notice of appearance in the action, he shall be entitled to five days' notice of the time and place of such assessment.

Where the defendant, by his answer in any such action, shall not deny the plaintiff's claim, but shall set up a counter claim, amounting to less than the plaintiff's claim, judgment may be had by the plaintiff for the excess of said claim over the said counter claim, in like manner in any such action, upon the plaintiff's filing with the Clerk of the Court a statement admitting such counter claim, which statement shall be annexed to, and be a part of, the judgment-roll.

2. In other actions the plaintiff may, upon the like proof, apply to the Court, after the expiration of the time for answering, for the relief demanded in the complaint. If the taking of an account or the proof of any fact be necessary to enable the Court to give judgment, or to carry the judgment into effect, the Court may take the account or hear the proof, or may, in its discretion, order a reference for that purpose. And where the action is for the recovery of money only, or of specific real or personal property, with damages for the withholding thereof, the Court may order the damages to be assessed by a jury, or, if the examination of a long account be involved, by a reference as above provided. If the defendant give notice of appearance in the action before the expiration of the time for answering, he shall be entitled to eight days' notice of the time and place of application to the Court for the relief demanded by the complaint.

3. In actions where the service of the summons was by application, the plaintiff may, in like manner, apply for judment, and the Court must thereupon require proof to be made of the demand mentioned in the complaint; and, if the defendant be not a resident of the State, must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to any one for his use, on account of such demand, and may render judgment for the amount which he is entitled to recover. Before rendering judgment the Court may, in its discretion, require the plaintiff to cause to be filed satisfactory security, to abide the order of the Court, touching the restitution of any estate or effects which may be directed by such judgment to be transferred or delivered, or the restitution of any money that may be collected under or by virtue of such judgment, in case the defendant or his representatives shall apply and be admitted to defend the action, and shall succeed in such defence.

Judgment on frivolous demurrer, answer or reply.

SEC. 270. If a demurrer, answer or reply be frivolous, the party prejudiced thereby, upon a previous notice of five days, may apply to a Judge of the Court, either in or out of the Court, for judgment thereon, and judgment may be given accordingly.

CHAPTER 2.—*Issues, and the Mode of Trial.*

SEC.
271. The different kinds of issues.
272. Issue of law.
273. Issue of fact.
274. On issues of both law and fact, the issue of law to be first tried.
275. Trial defined.
276. Issues; how tried.
277. Issues triable by the Court.
278. Either party may give notice of trial. Note of issue.
279. Stenographer to be appointed by the Judges of certain Circuits; to take stenographic notes.
280. Duty of stenographer.
281. Order of disposing of issues on the calendar.

SEC. 271. Issues arise upon the pleadings when a fact or conclusion of law is maintained by the one party and controverted by the other. They are of two kinds— **The different kinds of issues.**

1. Of law; and,

2. Of fact.

SEC. 272. An issue of law arises— **Issue of law.**

1. Upon a demurrer to the complaint, answer or reply, or to some part thereof.

SEC. 273. An issue of fact arises— **Issue of fact.**

1. Upon a material allegation in the complaint controverted by the answer; or,

2. Upon new matter in the answer controverted by the reply; or,

3. Upon new matter in the reply, except an issue of law is joined thereon.

SEC. 274. Issues, both of law and of fact, may arise upon different parts of the pleadings in the same action. In such cases, the issues of law must be first tried, unless the Court otherwise direct. **On issues of both law and fact, the issue of law to be first tried.**

SEC. 275. A trial is the judicial examination of the issues between the parties, whether they be issues of law or of fact. **Trial defined.**

SEC. 276. An issue of law must be tried by the Court unless it be referred as provided in Sections two hundred and ninety-four and two hundred and ninety-five. An issue of fact, in an action for the recovery of money only, or of specific real or personal property, or for a divorce from the marriage contract on the ground of adultery, must be tried by a jury, unless a jury trial be waived, as provided in Section two hundred and ninety, or a reference be ordered, as provided in Sections two hundred and ninety-four and two hundred and ninety-five. **Issues, how tried.**

SEC. 277. Every other issue is triable by the Court, which, however, may order the whole issue, or any specific question of fact involved therein, to be tried by a jury, or may refer it, as provided in Sections two hundred and ninety-four and two hundred and ninety-five. **Other issues to be tried by the Court.**

SEC. 278. At any time after issue, and at least fourteen days before the Court, either party may give notice of trial. The party giving the notice shall furnish the Clerk, at least eight days before the Court, with a note of the issue containing the title of the action, the names of the attorneys, and the time when the last pleading was served, and the Clerk shall **Either party may give notice of trial. Note of issue.**

thereupon enter the cause upon the calendar, according to the date of the issue. There need be but one notice of trial, and one note of issue from either party, and the action shall then remain on the calendar until disposed of, and, when called, may be brought to trial by the party giving the notice. In every action in which issue of fact is now joined, and the action is now placed upon the calendar of the Court of Common Pleas, in the First, Second and Fifth Circuits, the party who shall have filed such note of issue, shall, as a condition precedent to such action being brought to trial, pay to the Clerk of the Court the sum of three dollars; and in every action in either of the said Courts, commenced after the passage of this Code of Procedure, the party who shall file therein a first note of issue of fact, shall, as a condition precedent to such filing, pay to the Clerk of the Court the sum of three dollars; and the amounts so received shall be accounted for under oath, and paid over monthly, by the Clerk of each of said Courts, to the County Treasurer, to be used as a fund for the payment of the salaries of stenographers employed in Courts. If the fund thus created be inadequate to pay such salaries, the additional amount necessary for such payment shall be paid by the County Treasurers of the several Counties in the Circuit, out of any moneys raised for County purposes, and in proportion to the valuation for taxation of their respective Counties. The several County Auditors in a Circuit shall furnish the Circuit Solicitor, on demand, a certificate of the amount of taxable property in their respective Counties, upon which he shall apportion to said Counties the several sums to be paid by them to the stenographer, which sums shall be paid upon the order of the Solicitor, approved by the Judge of the Circuit. Any surplus in the fund received by County Treasurers to pay the salary of stenographers shall be appropriated to County purposes.

A Stenographer to be appointed for three Circuits, to take full stenographic notes of trial.

SEC. 279. The Judges of the First, Second and Fifth Circuit Courts shall each appoint a stenographer for their several Circuits, who shall be a sworn officer of the Court, and who shall hold office during the pleasure of the Court, and shall be paid a salary of twenty-five hundred dollars per annum, payable quarterly, upon the order of the presiding Judge. It shall be the duty of every stenographer so appointed for any Circuit, under the direction of the presiding Judge thereof, to take full stenographic notes of all proceedings, including the rulings and charge of the Court in every trial thereat, and in case the presiding Judge shall require a transcript of said stenographic notes, he may order the same to be furnished by the stenographer.

Duty of Stenographer.

SEC. 280. It shall be the duty of such stenographer to furnish to any party to such trials, upon request, a copy of the evidence and proceedings taken by him on such trials, or of such part thereof as may be required, on payment, on behalf of such party, of ten cents for every one hundred words of the copy so furnished. The sum paid as a condition precedent to the cause being brought on trial, or to the first note of issue being filed as hereinbefore provided, shall be deemed a necessary disbursement,

within the meaning of Section 337 of this Code of Procedure, and shall be allowed as such to the prevailing party in the action.

Order of disposing of issues on the calendar.

SEC. 281. The issues on the calendar shall be disposed of in the following order, unless, for the convenience of parties or the dispatch of business, the Court shall otherwise direct—

1. Issues of fact to be tried by a jury;
2. Issues of fact to be tried by the Court;
3. Issues of law.

CHAPTER 3.—*Trial by Jury.*

SEC.
282. Notice of trial. Separate trials.
283. Court to be furnished with a copy of the pleadings.
284. General and special verdicts defined.
285. When jury may render either general or special verdict, and when the Court may direct a special finding.
286. On special finding with a general verdict, the former to control.
287. Jury to assess defendant's damages in certain cases.
288. Entry of the verdict. Motion for new trial.
289. Motion for new trial, or for judgment on special verdict, where to be heard.

Notice of trial.

Separate trial.

SEC. 282. Either party giving the notice may bring the issue to trial, and, in absence of the adverse party, unless the Court, for good cause, otherwise direct, may proceed with his case, and take a dismissal of the complaint, or a verdict or judgment, as the case may require. A separate trial between a plaintiff and any of the several defendants may be allowed by the Court, whenever, in its opinion, justice will thereby be promoted.

The County to be furnished with a copy of pleadings, &c.

SEC. 283. When the issue shall be brought to trial by the plaintiff, he shall furnish the Court with a copy of the summons and pleadings, with the offer of defendant, if any shall have been made. When the issue shall be brought to trial by the defendant, and the plaintiff shall neglect or refuse to furnish the Court with a copy of the summons and pleadings and the offer of the defendant, the same may be furnished by the defendant.

General and special verdict defined.

SEC. 284. A general verdict is that by which the jury pronounce generally upon all or any of the issues, either in favor of the plaintiff or defendant. A special verdict is that by which the jury find the facts only, leaving the judgment to the Court.

When jury to render general or special verdict, and when Court may direct a special finding.

SEC. 285. In an action for the recovery of specific personal property, if the property have not been delivered to the plaintiff, or if it have, and the defendant, by his answer, claim a return thereof, the jury shall assess the value of the property, if their verdict be in favor of the plaintiff; or, if they find in favor of the defendant, and that he is entitled to a return thereof; and may, at the same time, assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding such property.

In every action for the recovery of money only, or specific real property, the jury, in their discretion, may render a general or special verdict. In all other cases the Court may direct the jury to find a special verdict, in writing, upon any or all of the issues; and in all cases may instruct them, if they render a general verdict, to find upon particular questions of fact, to be stated in writing, and may direct a written finding thereon. The special verdict or finding shall be filed with the Clerk, and entered upon the minutes.

On special finding with general verdict, former to control.

SEC. 286. Where a special finding of facts shall be inconsistent with the general verdict, the former shall control the latter, and the Court shall give judgment accordingly.

Jury to assess defendant's damages in certain cases.

SEC. 287. When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a set-off for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury must also assess the amount of the recovery; they may also, under the direction of the Court, assess the amount of the recovery when the Court give judgment for the plaintiff on the answer. If a set-off, established at the trial, exceed the plaintiff's demand so established, judgment for the defendant must be given for the excess; or if it appear that the defendant is entitled to any other affirmative relief, judgment must be given accordingly.

Entry of the verdict. Motion for new trial on the Judge's minutes.

SEC. 288. [1.] Upon receiving a verdict, the Clerk shall make an entry in his minutes, specifying the time and place of the trial, the names of the jurors and witnesses, the verdict, and either the judgment rendered thereon or an order that the cause be reserved for argument or further consideration. If a different direction be not given by the Court, the Clerk must enter judgment in conformity with the verdict. [2.] If an exception be taken, it may be reduced to writing at the time, or entered in the Judge's minutes, and afterwards settled as provided by the rules of Court, and then stated in writing in a case, or separately, with so much of the evidence as may be material to the questions to be raised, but need not be sealed or signed, nor need a bill of exceptions be made. [3.] If the exceptions be, in the first instance, stated in a case, and it be afterwards necessary to separate them, the separation may be made under the direction of the Court, or a Judge thereof. [4.] The Judge who tries the cause may, in his discretion, entertain a motion, to be made on his minutes, to set aside a verdict and grant a new trial upon exceptions, or for insufficient evidence, or for excessive damages; but such motions in actions hereafter tried, if heard upon the minutes, can only be heard at the same term at which the trial is had. When such motion is heard and decided upon the minutes of the Judge, and an appeal is taken from the decision, a case or exceptions must be settled in the usual form, upon which the argument of the appeal must be had.

SEC. 289. A motion for a new trial, on a case or exceptions, or otherwise, and an application for judgment on a special verdict or case reserved for argument or further consideration, must, in the first instance, be heard and decided at the same term, except that when exceptions are taken, the Judge trying the cause may, at the trial, direct them to be heard, in the first instance, at the next or special term, and the judgment in the meantime suspended; and in that case they must be there heard in the first instance, and judgment there given. And when, upon a trial, the case presents only questions of law, the Judge may direct a verdict.

Motion for new trial on a case, &c.
Verdict subject to the opinion of the Court.

CHAPTER 4.—*Trial by the Court.*

SEC.
290. Trial by jury, how waived.
291. On trial by the Court, judgment, how given. Motion for new trial
292. Exceptions, how and when taken. Judgment at general term.
293. Proceedings upon judgment on issue of law.

SEC. 290. Trial by jury may be waived by the several parties to an issue of fact, in actions on contract, and, with the assent of the Court, in other actions, in the manner following:

Trial by jury, how waived.

1. By failing to appear at the trial;

2. By written consent, in person, or by attorney, filed with the Clerk;

3. By oral consent in open Court, entered in the minutes.

SEC. 291. Upon the trial of a question of fact by the Court, its decision shall be given in writing, and shall contain a statement of the facts found, and the conclusions of law, separately: and, upon a trial of an issue of law, the decision shall be made in the same manner, stating the conclusions of law. Such decision shall be filed with the Clerk within sixty days after the Court at which the trial took place. Judgment upon the decision shall be entered accordingly.

On trial by the Court, judgment, how to be given.

SEC. 292. [1.] For the purposes of an appeal, either party may except to a decision on a matter of law arising upon such trial, within ten days after notice in writing of the judgment, in the same manner and with the same effect as upon a trial by jury: *Provided, however*, That where the decision filed under Section 291 does not authorize a final judgment, but directs further proceedings before a referee or otherwise, either party may move for a new trial at the next term, and for that purpose may, within ten days after notice of the decision being filed, except thereto, and make a case or exceptions as above provided in cases of an appeal.

Exceptions, how and when taken.
Motion for new trial.
Judgment at general term.

[2.] And either party desiring a review upon the evidence appearing on the trial, either of the questions of fact or of law, may, at any time within ten days after notice of the judgment, or within such time as may be prescribed by the rules of the Court, make a case or exceptions, in like manner as upon a trial by jury, except that the Judge, in settling the case, must briefly specify the facts found by him, and his conclusion of law.

Proceedings on judgment on issue at law.

SEC. 293. On a judgment for the plaintiff upon an issue of law, the plaintiff may proceed in the manner prescribed by the first two subdivisions of Section 269, upon the failure of the defendant to answer, where the summons was personally served. If judgment be for the defendant, upon an issue of law, and if taking of an account or the proof of any fact be necessary to enable the Court to complete the judgment, a reference or assessment by jury may be ordered, as in that Section provided.

CHAPTER 5.—*Trial by Referees.*

SEC.
294. All issues referable by consent.
295. When a reference may be compulsorily ordered.
296. Mode of trial. Effect of report. Review.
297. Referees, how chosen. Report.

All issues referable by consent.

SEC. 294. All or any of the issues in the action, whether of fact or of law, or both, may be referred upon the written consent of the parties.

When reference may be compulsorily ordered.

SEC. 295. Where the parties do not consent, the Court may, upon the application of either, or of its own motion, except where the investigation will require the decision of difficult questions of law, direct a reference in the following cases—

1. Where the trial of an issue of fact shall require the examination of a long account on either side; in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

2. Where the taking of an account shall be necessary for the information of the Court, before judgment, or for carrying a judgment or order into effect; or,

3. Where a question of fact, other than upon the pleadings, shall arise, upon motion or otherwise, in any stage of the action.

Mode of trial. Effect of report. Decision reviewed.

SEC. 296. The trial by referees shall be conducted in the same manner and on similar notice, as a trial by the Court. They shall have the same power to grant adjournments, and to allow amendments to any pleadings and to the summons, as the Court, upon such trial, upon the same terms and with the like effect. They shall have the same power to preserve order and punish all violations thereof upon such trial, and to compel the attendance of witnesses before them by attachment, and to punish them as for contempt for non-attendance or refusal to be sworn or testify,

as is possessed by the Court. They must state the facts found, and the conclusions of law separately; and their decision must be given, and may be excepted to and reviewed in like manner, and with like effect, in all respects, as in cases of appeal under Section two hundred and ninety-two; and they may in like manner settle a case or exceptions. The report of the referees upon the whole issue shall stand as the decision of the Court, and judgment may be entered thereon in the same manner as if the action had been tried by the Court. When the reference is to report the facts, the report shall have the effect of a special verdict.

When the case shall have been heard and decided upon the report of the referee, and exceptions, the decision may be reviewed on appeal to the Supreme Court.

Referees—how to be chosen. Who may be referee.

SEC. 297. In all cases of reference the parties to whom issues are formed in the action, except when the defendant is an infant or an absentee, may agree in writing upon a person or persons, not exceeding three, and a reference shall be ordered to him or them, and to no other person or persons. And if such parties do not agree, the Court shall appoint one or more referees, not more than three, who shall be free from exception. And no person shall be appointed referee to whom all parties in the action shall object, except in actions for divorce. And no Judge or Justice of any Court shall sit as referee in any action pending in the Court of which he is Judge or Justice, and not already referred, unless the parties otherwise stipulate. The referee or referees shall make and deliver a report within sixty days from the time the action shall be finally submitted; and in default thereof, and before the report is delivered, either party may serve notice upon the opposite party that he elects to end the reference; and thereupon the action shall proceed as though no reference had been ordered, and the referees shall not in such case be entitled to any fees.

Report.

CHAPTER 6.—*Manner of Entering Judgment.*

SEC.
298. Judgment may be for or against any of the parties to the action; may grant defendant affirmative relief. Complaint may be dismissed for neglect to prosecute the action. Judgment against married women.
299. The relief to be awarded to the plaintiff.
300. Rates of damages where damages are recoverable.
301. Judgment in action for recovery of personal property.
302. Judgment, how directed.
303. Clerk to keep a judgment-book.
304. Judgment to be entered in judgment-book.
305. Judgment-roll. Transcript of judgment filed in any other County—effect of.

Judgment may be for or against any of the parties—may grant defendant affirmative relief.

SEC. 298. 1. Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants; and it may determine the ultimate rights of the parties on each side, as between themselves;

2. And it may grant to the defendant any affirmative relief to which he may be entitled;

3. In an action against several defendants, the Court may, in its discretion, render judgment against one or more of them, leaving the action

to proceed against the others, whenever a several judgment may be proper;

Complaint may be dismissed for neglect to prosecute action.

4. The Court may also dismiss the complaint, with costs in favor of one or more defendants, in case of unreasonable neglect on the part of the plaintiff to serve the summons on other defendants, or to proceed in the cause against the defendant or defendants served.

In action brought by or against a married woman, judgment may be given against her as well for costs as for damages, or both for such costs and for such damages, in the same manner as against other persons, to be levied and collected of her separate estate, and not otherwise.

The relief to be awarded to plaintiff.

SEC. 299. The relief granted to the plaintiff, if there be no answer, cannot exceed that which he shall have demanded in his complaint; but in any other case, the Court may grant him any relief consistent with the case made by the complaint and embraced within the issue.

Rate of damages where damages are recoverable.

SEC. 300. Whenever damages are recoverable, the plaintiff may claim and recover, if he show himself entitled thereto, any rate of damages which he might have heretofore recovered for the same cause of action.

Judgment in action for recovery of personal property.

SEC. 301. In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession, or for the recovery of possession, or the value thereof, in case a delivery cannot be had, and of damages for the detention. If the property have been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

Judgment—how directed.

SEC. 302. Judgment upon an issue of law, or of fact found, or upon confession, or upon failure to answer, or upon report of referees (except where the Clerk is authorized to enter the same, by the first sub-division of Section 269, and by Section 401,) shall be entered upon the direction of a Judge, subject to review on appeal in the Supreme Court.

The Clerk to keep a judgment-book.

SEC. 303. The Clerk shall keep among the records of the Court a book for the entry of judgment, to be called the "Judgment Book."

Judgment to be entered in the judgment-book.

SEC. 304. The judgment shall be entered in the Judgment Book, and shall specify clearly the relief granted, or other determination of the action.

Judgment-roll.

SEC. 305. Unless the party or his attorney shall furnish a judgment roll, the Clerk, immediately after entering the judgment, shall attach together and file the following papers, which shall constitute the judgment roll—

1. In case the complaint be not answered by any defendant, the summons and complaint, or copies thereof, proof of service, and that no answer has been received, the report, if any, and a copy of the judgment;

2. In all other cases, the summons, pleadings or copies thereof, and a copy of the judgment, with any verdict or report, the offer of the defendant, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment.

A transcript of a final judgment, directing, in whole or in part, the payment of money, may be docketed with the Clerk of the Court of Common Pleas in any other County, and, when so docketed, shall have the same force and effect as a judgment of that Court.

Transcript of judgment filed in any other County, effect of.

TITLE 9.—Of the Execution of the Judgment in Civil Actions.

Chapter 1. The Execution.
2. Proceedings Supplementary to the Execution.

Chapter 1.—*The Execution.*

Sec.
306. Execution within five years of course.
307. Execution can only be issued by leave of Court after five years. Leave, how obtained.
308. Judgments, how enforced.
309. The different kinds of execution.
310. To what Counties execution may be issued. Execution against a married woman.
311. Execution against the person, in what cases.
312. Forms of execution.
313. Final judgments not a lien. Attachments on mesne process a lien for one hundred and twenty days after final judgment.
314. Attachment of real estate made by lodging a copy of execution, and officer's return with the Register of deeds. Such attachment a lien for one hundred and twenty days.
315. Execution to be returnable in sixty days.
316. Personal property bound only by levy.
317. Existing laws, not inconsistent with this, relating to executions, continued until otherwise provided.

Sec. 306. Writs of execution for the enforcement of judgments, as now used, are modified in conformity to this Title, and the party in whose favor judgment has been heretofore or shall hereafter be given, and, in case of his death, his personal representatives duly appointed may, at any time within five years after the entry of judgment, proceed to enforce the same, as prescribed by this Title.

Writs of execution to be enforced within five years.

Sec. 307. After the lapse of five years from the entry of judgment, an execution can be issued only by leave of the Court, upon motion, with personal notice to the adverse party, unless he be absent or non-resident, or cannot be found to make such service, in which case such service may be made by publication, or in such other manner as the Court shall direct. Such leave shall not be given, unless it be established by the oath of the party, or other satisfactory proof, that the judgment, or some part thereof, remains unsatisfied and due. But the leave shall not be necessary when execution has been issued on the judgment within the five years, and returned unsatisfied in whole or in part.

After five years to be issued only by leave of Court

Leave, how obtained.

When judgment shall have been rendered in a Court of a Trial Justice or other inferior Court in a city, and docketed in the office of the Clerk of the Circuit Court, the application for leave to issue execution must be to the County Court of the County where the judgment was rendered.

Judgment—how enforced.

SEC. 308. Where a judgment requires the payment of money, or the delivery of real or personal property, the same may be enforced, in those respects, by execution, as provided in this Title. Where it requires the performance of any other act, a certified copy of the judgment may be served upon the party against whom it is given, or the person or officer who is required thereby or by law to obey the same, and his obedience thereto enforced. If he refuse, he may be punished by the Court as for a contempt.

The different kinds of execution.

SEC. 309. There shall be three kinds of execution: One against the property of the judgment debtor; another against his person; and the third for the delivery of the possession of real or personal property, or such delivery with damages for withholding the same. They shall be deemed the process of the Court.

Execution to be issued, to what Counties.

SEC. 310. When the execution is against the property of the judgment debtor, it may be issued to the Sheriff of any County where judgment is docketed. When it requires the delivery of real or personal property, it must be issued to the Sheriff of the County where the property, or some part thereof, is situated. Executions may be issued at the same time to different Counties.

Real property adjudged to be sold, must be sold in the County where it lies, by the Sheriff of the County, or by a referee appointed by the Court for that purpose; and, thereupon, the Sheriff or referee must execute a conveyance to the purchaser, which conveyance shall be effectual to pass the rights and interests of the parties adjudged to be sold.

Execution to issue against a married woman.

An execution may issue against a married woman, and it shall direct the levy and collection of the amount of the judgment against her from her separate property, and not otherwise.

Execution to issue against the person, in what cases.

SEC. 311. If the action be one in which the defendant might have been arrested, as provided in Section 202 and Section 204, an execution against the person of the judgment debtor may be issued to any County within the jurisdiction of the Court, after the return of an execution against his property unsatisfied in whole or in part. But no execution shall issue against the person of a judgment debtor, unless an order of arrest has been served, as in this Code of Procedure provided, or unless the complaint contains a statement of facts showing one or more of the causes of arrest required by Section 202.

Form of the execution.

SEC. 312. The execution must be directed to the Sheriff, or Coroner when the Sheriff is a party or interested, attested by the Clerk, subscribed by the party issuing it, or his attorney, and must intelligibly refer to the judgment, stating the Court, the County where the judgment roll or transcript is filed, the names of the parties, the amount of the judgment, if it be for money, and the amount actually due thereon, and the time of docketing in the County to which the execution is issued, and shall require the officer, substantially, as follows:

1. If it be against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of such debtor; and if sufficient personal property cannot be found, out of the real property belonging to him;

2. If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants of real property, or trustees, it shall require the officer to satisfy the judgment out of such property;

3. If it be against the person of the judgment debtor, it shall require the officer to arrest such debtor and commit him to the jail of the County until he shall pay the judgment or be discharged according to law;

4. If it be for the delivery of the possession of real or personal property, it sha l require the officer to deliver the possession of the same, particularly describing it, to the party entitled thereto, and may, at the same time, require the officer to satisfy any costs, damages, or rents or profits recovered by the same judgment, out of the personal property of the party against whom it was rendered, and the value of the property for which the judgment was recovered, to be specified therein; if a delivery thereof cannot be had, and if sufficient personal property cannot be found, then out of the real property belonging to him, and shall, in that respect, be deemed an execution against property.

Final judgments not a lien.

Attachment on mesne process a lien for one hundred and twenty days after the render of final judgment.

SEC. 313. Final judgments, hereafter rendered, shall not of themselves constitute a lien upon real or personal property, or in any way bind the real or personal property of the judgment debtor: *Provided*, That the real or personal property attached and held on mesne process, in an action, shall continue bound until the expiration of one hundred and twenty days after final judgment is rendered, for the purpose of satisfying the same

Attachment of real estate, how made.

SEC. 314. When an officer holding an execution for collection shall be directed by the creditor, his agent or attorney, to levy the same on the real estate of the debtor, he may lodge in the office where, by law, a deed of such real estate is required to be recorded, a certified copy of such execution, with a certificate thereon, under his hand, stating that he is directed to levy the same on such real estate, substantially describing the same. The real estate thus described shall be held to satisfy such execution, for the term of one hundred and twenty days from the time of lodging the copy thereof; and when encumbered by previous attach-

ments, or liens, the lien thus created shall remain, after the removal of such prior encumbrance or lien, one hundred and twenty days.

The Register of Mesne Conveyances shall keep a record of such copy in the same manner as attachments on mesne process.

Attachment a lien for one hundred and twenty days.

SEC. 315. The execution shall be returnable, within sixty days after its receipt by the officer, to the Clerk with whom the record of judgment is filed. If the first execution is returned unsatisfied, in whole or in part, another execution, as of course, may be issued at any time within the period limited by this Code of Procedure for issuing executions.

Personal property bound only by levy.

SEC. 316. The lodgment of executions, hereafter issued, with the Sheriff, shall not bind the personal property of the debtor, but personal property shall only be bound by actual attachment or levy thereon.

Existing laws, not inconsistent with this, relating to execution, continued until further provision be made.

SEC. 317. Until otherwise provided by the Legislature, the existing provisions of law, not supplied by or in conflict with this Chapter, relating to executions and their incidents, the property liable to sale or execution, the sale thereof, the powers and rights of officers, their duties thereon, and the proceedings to enforce those duties, and the liability of their sureties, shall apply to the executions prescribed by this Chapter.

CHAPTER 2.—*Proceedings Supplementary to the Execution.*

SEC.
318. Order for discovery of property; examination of judgment debtor, &c.
319. Any debtor to execution debtor may pay his debt to Sheriff.
320. Examination of debtors of judgment debtor, or of those having property belonging to him.
321. Witnesses required to testify.
322. Compelling party or witnesses to attend.
323. What property may be ordered to be applied to the execution.
324. Judge may appoint receiver, and prohibit transfer of property.
325. Proceedings upon claim of another party to property, upon denial of indebtedness to judgment debtor.
326. Reference by order.
327. Costs of proceeding.
328. Disobedience of order, how punished.

Order for discovery of property.

SEC. 318. 1. When an execution against property of the judgment debtor, or any one of several debtors in the same judgment, issued to the Sheriff of the County where he resides, or has a place of business, or, if he do not reside in the State, to the Sheriff of the County where a judgment-roll or a transcript of a Justice's judgment for twenty-five dollars or upwards, exclusive of costs, is filed, is returned unsatisfied, in whole or in part, the judgment creditor, at any time after such return made, is entitled to an order from a Judge of the Circuit Court, requiring such judgment debtor to appear and answer concerning his property, before such Judge, at a time and place specified in the order, within the County to which the execution was issued:

Examination of the judgment debtor, &c.

2. After the issuing of an execution against property, and upon proof by affidavit of a party, or otherwise, to the satisfaction of the Court, or a Judge thereof, that any judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, such Court or Judge may, by an order, require the judgment debtor to appear at a specified time and place, to answer concerning the same; and such pro-

ceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment as are provided upon the return of an execution;

3. On an examination under this Section, either party may examine witnesses in his behalf, and the judgment debtor may be examined in the same manner as a witness;

4. Instead of the order requiring the attendance of the judgment debtor, the Judge may, upon proof by affidavit, or otherwise, to his satisfaction, that there is danger of the debtor's leaving the State, or concealing himself, and that there is reason to believe he has property which he unjustly refuses to apply to such judgment, issue a warrant requiring the Sheriff of any County where such debtor may be to arrest him and bring him before such Judge. Upon being brought before the Judge, he may be examined on oath, and, if it then appears that there is danger of the debtor's leaving the State, and that he has property which he has unjustly refused to apply to such judgment, ordered to enter into an undertaking, with one or more sureties that he will, from time to time, attend before the Judge, as he shall direct, and that he will not, during the pendency of the proceedings, dispose of any portion of his property not exempt from execution In default of entering into such undertaking, he may be committed to prison by warrant of the Judge, as for a contempt;

5. No person shall, on examination, pursuant to this Chapter, be excused from answering any question on the ground that his examination will tend to convict him of the commission of a fraud; but his answer shall not be used as evidence against him in any criminal proceeding or prosecution. Nor shall he be excused from answering any question, on the ground that he has, before the examination, executed any conveyance, assignment or transfer of his property for any purpose; but his answer shall not be used as evidence against him in any criminal proceeding or prosecution.

Any debtor may pay execution against his creditor.

SEC. 319. After the issuing of execution against property, any person indebted to the judgment debtor may pay to the Sheriff the amount of his debt, or so much thereof as shall be necessary to satisfy the execution; and the Sheriff's receipt shall be a sufficient discharge for the amount so paid.

Examination of debtors of the judment debtor, or of those having property belonging to the said debtor.

SEC. 320. After the issuing or return of an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, and upon an affidavit that any person or corporation has property of such judgment debtor, or is indebted to him in an amount exceeding ten dollars, the Judge may, by an order, require such person or corporation, or any officer or member thereof, to appear at a specified time and place, and answer concerning the same. The Judge may also, in his discretion, require notice of such proceeding to be given to any party to the action, in such manner as may seem to him proper.

Joint debtors.

The proceedings mentioned in this Section, and in Section 318, may be taken upon the return of an execution unsatisfied, issued upon a judgment recovered in an action against joint debtors, in which some of the

defendants have not been served with the summons by which said action was commenced, so far as relates to the joint property of such debtors; and all actions by creditors to obtain satisfaction of judgments out of the property of joint debtors are maintainable in the like manner and to the like effect. These provisions shall apply to all proceedings and actions now pending, and not actually terminated by any final judgment or decree.

Witnesses required to testify.

SEC. 321. Witnesses may be required to appear and testify on any proceedings under this Chapter, in the same manner as upon the trial of an issue.

Compelling party or witnesses to attend.

SEC. 322. The party or witness may be required to attend before the Judge, or before a referee appointed by the Court or Judge; if before a referee, the examination shall be taken by the referee, and certified to the Judge. All examinations and answers before a Judge or referee, under this Chapter, shall be on oath, except that when a corporation answers, the answer shall be on the oath of an officer thereof.

What property may be ordered to be applied to the execution.

SEC. 323. The Judge may order any property of the judgment debtor, not exempt from execution, in the hands either of himself or any other person, or due to the judgment debtor, to be applied towards the satisfaction of the judgment; except that the earnings of the debtor for his personal services, at any time within sixty days next preceding the order, cannot be so applied, when it is made to appear, by the debtor's affidavit or otherwise, that such earnings are necessary for the use of a family supported wholly or partly by his labor.

Judge may appoint receiver and prohibit transfer, &c., of property. Order, &c.

SEC. 324. The Judge may also, by order, appoint a receiver of the property of the judgment debtor, in the same manner, and with the like authority, as if the appointment was made by the Court, according to Section 267. But before the appointment of such receiver, the Judge shall ascertain, if practicable, by the oath of the party or otherwise, whether any other supplementary proceedings are pending against the judgment debtor, and if such proceedings are so pending, the plaintiff therein shall have notice to appear before him, and shall likewise have notice of all subsequent proceedings in relation to said receivership. No more than one receiver of the property of a judgment debtor shall be appointed. The Judge may also, by order, forbid a transfer or other disposition of the property of the judgment debtor not exempt from execution, and any interference therewith.

Whenever the Judge shall grant an order for the appointment of a receiver of the property of the judgment debtor, the same shall be filed in the office of the Clerk of the Court of Common Pleas of the County where the judgment roll in the action, or transcript from Trial Justice's judgment, upon which the proceedings are taken, is filed; and the said Clerk shall record the order in a book, to be kept for that purpose in his office, to be called "Book of Orders Appointing Receivers of Judgment Debtors," and shall note the time of the filing of said order therein. A certified copy of said order shall be delivered to the receiver named

therein, and he shall be vested with the property and effects of the judgment debtor from the time of the filing and recording of the order, as aforesaid. The receiver of the judgment debtor shall be subject to the direction and control of the Court in which the judgment was obtained, or docketed, upon which the proceedings are founded.

But before he shall be vested with any real property of such judgment debtor, a certified copy of said order shall also be filed and recorded in the office of the Register of Mesne Conveyances of the County in which any real estate of such judgment debtor sought to be affected by such order is situated, and also in the office of the Register of Mesne Conveyances of the County in which such judgment debtor resides.

Proceedings upon claim of another party to property, or on denial of indebtedness to judgment debtor.

SEC. 325. If it appear that a person or corporation alleged to have property of the judgment debtor, or indebted to him, claims an interest in the property adverse to him, or denies the debt, such interest or debt shall be recoverable only in an action against such person or corporation by the receiver; but the Judge may, by order, forbid a transfer or other disposition of such property or interest, till a sufficient opportunity be given to the receiver to commence the action, and prosecute the same to judgment and execution; but such order may be modified or dissolved by the Judge granting the same, at any time, on such security as he shall direct.

Reference by Judge.

SEC. 326. The Judge may, in his discretion, order a reference to a referee agreed upon by the parties, or appointed by him, to report the evidence or the facts, and may, in his discretion, appoint such referee in the first order, at any time.

Costs of proceeding.

SEC. 327. The Judge may allow to the judgment creditor, or to any party so examined, whether a party to the action or not, witness' fees and disbursements, and a fixed sum in addition, not exceeding thirty dollars, as costs.

Disobedience of order, how punished.

SEC. 328. If any person, party or witness, disobey an order of the Judge or referee, duly served, such person, party or witness, may be punished by the Judge as for a contempt. And, in all cases of commitment under this Chapter, the person committed may, in case of inability to perform the act required, or to endure the imprisonment, be discharged from imprisonment by the Court or Judge committing him, or the Court in which the judgment was rendered, on such terms as may be just.

TITLE 10. Of the Costs in Civil Actions.

Sec.
329. Existing statutes regulating costs repealed.
330. Costs, when allowed of course to the plaintiff.
331. Costs, when allowed of course to the defendant.
332. Costs, when allowed to either party, in the discretion of the Court.
333. Amount of costs allowed.
334. Allowance in addition to costs.
335. Allowance, how computed. Difficult and extraordinary cases.
336. Interest on verdict or report, when allowed.
337. Costs, how to be inserted in judgment. Adjustment of interlocutory costs.
338. Clerk's fees.
339. Referee's fees.
340. Costs on postponement of trial.
341. Costs on a motion.
342. Costs against an infant plaintiff.
343. Costs in action by or against an executor or administrator, trustee of an express trust, or a person expressly authorized by statute to sue.
344. Costs on review of a decision of an inferior Court in a special proceeding.
345. Costs in an action by the State.
346. The like.
347. Costs against assignee after action brought of cause of action.
348. Costs on a settlement.

Fee bill abolished.

Sec. 329. All statutes establishing or regulating the costs or fees of attorneys, solicitors and counsel, in civil actions, are repealed; and hereafter the measure of such compensation shall be left to the agreement, express or implied, of the parties. But there may be allowed to the prevailing party, upon the judgment, certain sums, by way of indemnity, for his expenses in the action, which allowances are in this Code of Procedure termed costs.

When allowed of course to the plaintiff. Several actions on one instrument.

Sec. 330. Costs shall be allowed of course to the plaintiff, upon a recovery, in the following cases:

1. In an action for the recovery of real property, or when a claim of title to real property arises on the pleadings, or is certified by the Court to have come in question at the trial;

2. In an action to recover the possession of personal property;

3. In the actions of which a Court of Trial Justice has no jurisdiction;

4. In an action for the recovery of money, where the plaintiff shall recover fifty dollars. But, in an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction, if the plaintiff recover less than fifty dollars' damages, he shall recover no more costs than damages. And in an action to recover the possession of personal property, if the plaintiff recover less than fifty dollars' damages, he shall recover no more costs than damages, unless he recovers property also, the value of which, with the damages, amounts to fifty dollars, or the possession of property be adjudged to him, the value of which, with the damages, amounts to fifty dollars. Such value must be determined by the jury, Court or referee by whom the action is tried. When several actions shall be brought on one bond, recognizance, promissory note, bill of exchange, or other instrument in writing, or in any other case, for the same cause of action, against several parties who might have been joined as defendants in the same action, no costs other than disbursements shall be allowed to the plaintiff in more than one of such actions, which shall be at his election: *Provided*, That the party or parties proceeded against in such other action or actions shall, at the time of the commencement of the previous action or actions, have been within this State and not secreted.

SEC. 331. Costs shall be allowed of course to the defendant in the actions mentioned in the last Section, unless the plaintiff be entitled to costs therein.

When allowed to defendant.

SEC. 332. In other actions, costs may be allowed, or not, in the discretion of the Court.

When allowed to either party, in the discretion of the Court.

In all actions where there are several defendants not united in interest, and making separate defences by separate answers, and the plaintiff fails to recover judgment against all, the Court may award costs to such of the defendants as have judgment in their favor, or any of them.

In the following cases, the costs of an appeal shall be in the discretion of the Court—

1. When a new trial shall be ordered;

2. When a judgment shall be affirmed in part and reversed in part.

SEC. 333. When allowed, except in Courts of Trial Justices, costs shall be as follows—

Amount of costs allowed.

1. To the plaintiff, for all proceedings before notice of trial, in actions where judgment for failure to answer can be taken without application to the Court, fifteen dollars; where judgment can only be taken on such application, twenty-five dollars; for all proceedings after notice of and before trial, fifteen dollars; for each additional defendant served with process, not exceeding ten, two dollars; and for each necessary defendant, in excess of that number, served with process, one dollar;

2. To the defendant, for all proceedings before notice of trial, ten dollars; and for all proceedings after notice of and before trial, fifteen dollars;

3. To either party for the trial of an issue of law, twenty dollars; for every trial of an issue of fact, thirty dollars; and where the trial shall necessarily occupy more than two days, ten dollars in addition hereto;

4. To either party, where a new trial shall be had, for all proceedings after the granting of and before such new trial, twenty-five dollars; for attending upon and taking the deposition of a witness conditionally, or attending to perpetuate his testimony, ten dollars; for drawing interrogatories to annex to a commission for the taking of testimony, ten dollars; for attending the examination of a party before trial, ten dollars; for making and serving a case, or case containing exceptions, twenty dollars, except that where the case shall necessarily contain more than fifty folios, there shall be allowed ten dollars in addition thereto; and for making and serving amendments thereto, ten dollars. To the plaintiff, for the appointment of a guardian of an infant defendant, ten dollars; but no more than ten dollars shall be allowed for the appointment of guardians in any one action. To the plaintiff, for procuring an order of injunction, ten dollars;

5. To either party on appeal to the Supreme Court, before argument, thirty dollars; for argument, sixty dollars; and when a judgment is affirmed, the Court may, in its discretion, also award damages for the delay, not exceeding ten per cent. on the amount of the judgment; for pre-

paring and serving a case, or case containing exceptions, in appeals to the Supreme Court, twenty dollars;

6. To either party, for every term, not exceeding five, at which the cause is necessarily on the calendar and is not tried, or is postponed by order of the Court, ten dollars; and for every term, not exceeding ten, excluding the term at which the cause is argued in the Supreme Court, ten dollars; but in an action hereafter brought to recover dower, before admeasurements of real property aliened by the husband, the plaintiff shall not recover costs, unless it appear that the dower was demanded before the commencement of the action and was refused.

The same costs shall be allowed to the plaintiff in proceedings under Chapter 2, Title 12, of the 2d Part of this Code, (Sections 392 to 398,) as upon the commencement of an action.

Additional allowance.

SEC. 334. In addition to these allowances, there shall be allowed to the plaintiff, upon the recovery of judgment by him, in any action for the partition of real property, or for the foreclosure of a mortgage, or in any action in which a warrant of attachment has been issued, or for an adjudication upon a will or other instrument in writing, and in proceedings to compel the determination of claims to real property, the sum of ten per cent. on the recovery, as in the next Section prescribed, for any amount not exceeding two hundred dollars; an additional sum of five per cent. for any additional amount not exceeding four hundred dollars; and an additional sum of two per cent. for any additional amount not exceeding one thousand dollars.

And in the actions above named, if the same shall be settled before judgment therein, like allowances upon the amount paid or secured upon such settlement, at one-half the rates above specified.

Allowance, how computed.

SEC. 335. These rates shall be estimated upon the value of the property claimed or attached or affected by the adjudication upon the will or other instrument, sought to be partitioned, or the amount found due or unpaid upon the mortgage in an action for foreclosure. And whenever it shall be necessary to apply to the Court for an order enforcing the payment of an installment falling due, after judgment, in an action for foreclosure, the plaintiff shall be entitled to the rate of allowance in the last Section prescribed, but to no more, in the aggregate, than if the whole amount of the mortgage had been due when judgment was entered. Such amount of value must be determined by the Court or by the Commissioners, in case of actual partitions. In difficult and extraordinary cases, where a defence has been interposed, or in such cases where a trial has been had, and in actions or proceedings for the partition of real estate, the Court may also, in its discretion, make a further allowance to any party, not exceeding five per cent. upon the amount of the recovery or claim, or subject-matter involved.

Difficult and extraordinary cases.

Interest on verdict or report, when allowed.

SEC. 336. When the judgment is for the recovery of money, interest from the time of the verdict or report until judgment be finally entered,

shall be computed by the Clerk, and added to the costs of the party entitled thereto.

Costs, how to be inserted in judgment.

SEC. 337. The Clerk shall insert in the entry of judgment, on the application of the prevailing party, upon five days' notice to the other, except when the attorneys reside in the same city, village, or town, and then, upon two days' notice, the sum of the allowances for costs, as provided by this Code, the necessary disbursements, including the fees of officers allowed by law, the fees of witnesses, the reasonable compensation of Commissioners in taking depositions, the fees of referees, and the expense of printing the papers for any hearing, when required by a rule of the Court. The disbursements shall be stated in detail and verified by affidavit. A copy of the items of the costs and disbursements shall be served, with a notice of adjustment.

Adjustment of interlocutory costs.

Whenever it shall be necessary to adjust costs in any interlocutory proceeding in an action, or in any special proceedings, the same shall be adjusted by the Judge before whom the same may be heard, or the Court before which the same may be decided or pending, or in such other manner as the Judge or Court may direct.

Clerk's fees.

SEC. 338. The Clerk shall receive:—

On every trial, from the party bringing it on, two dollars;

On filing transcript, twenty-five cents;

On entering judgment, fifty cents.

He shall receive no other fee for any services whatever, in a civil action, except for copies of papers, at the rate of ten cents for every hundred words.

Referee's fees

SEC. 339. The fees of referees shall be three dollars to each, for every day spent in the business of the reference; but the parties may agree, in writing, upon any other rate of compensation.

Of costs on the postponement of trial.

SEC. 340. When an application shall be made to a Court or referees to postpone a trial, the payment to the adverse party of a sum not exceeding ten dollars, besides the fees of witnesses, may be imposed, as the condition of granting the postponement.

Costs on a motion.

SEC. 341. Costs may be allowed on a motion, in the discretion of the Court or Judge, not exceeding ten dollars, and may be absolute or directed to abide the event of the action.

Costs against infant plaintiff.

SEC. 342. When costs are adjudged against an infant plaintiff, the guardian by whom he appeared in the action shall be responsible therefor, and payment thereof may be enforced by attachment.

Costs in action by or against an executor, &c. Security.

1 Bail., 79; 2 Bay, 166; 2 Bail., 6, 5[illegible], 319; 11 Rich., 363.

SEC. 343. In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or a person expressly authorized by statute, costs shall be recovered, as in an action by and against a person prosecuting or defending in his own right; but such costs shall be chargeable only upon, or collected of, the estate, fund, or party repre-

sented, unless the Court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action or defence.

Costs on review of a decision of an inferior Court in a special proceeding.

SEC. 344. When the decision of a Court of inferior jurisdiction in a special proceeding, including appeals from Probate Courts, shall be brought before the Circuit Court for review, such proceeding shall, for all purposes of cost, be deemed an action at issue, on a question of law, from the time the same shall be brought into Court, and costs thereon shall be awarded and collected in such manner as the Court shall direct, according to the nature of the case.

Costs in action by the State.

SEC. 345. In all civil actions, prosecuted in the name of the State, by an officer duly authorized for that purpose, the State shall be liable for costs in the same cases, and to the same extent, as private parties. If a private person be joined with the State as plaintiff, he shall be liable in the first instance for the defendant's costs, which shall not be recovered of the State till after execution issued therefor against such private party and returned unsatisfied.

The same.

SEC. 346. In an action prosecuted in the name of the State, for the recovery of money or property, or to establish a right or claim for the benefit of any County, city, town, village, corporation or person, costs awarded against the plaintiff shall be a charge against the party for whose benefit the action was prosecuted, and not against the State.

Costs against assignee after an action commenced.

SEC. 347. In actions in which the cause of action shall, by assignment after the commencement of the action, or in any other manner, become the property of a person not a party to the action, such person shall be liable for the costs in the same manner as if he were a party, and payment thereof may be enforced by attachment.

Costs on a settlement.

SEC. 348. Upon the settlement, before judgment, of any action mentioned in Section three hundred and thirty, no greater sum shall be demanded from the defendant, as costs, than at the rates prescribed by that Section.

TITLE 11.—OF APPEALS IN CIVIL ACTIONS.

CHAPTER 1. Appeals in General.
2. Appeals to the Supreme Court.
3. Appeal to the Circuit Court from an Inferior Court.

CHAPTER 1.—*Appeals in General.*

SEC.
349. Writs of error abolished, and appeals substituted.
350. Orders made out of Court, how vacated or modified.
351. Who may appeal.
352. Parties, how designated on appeal.
353. Appeal, how made.
354. Clerk to transmit papers to Appellate Court.
355. Intermediate orders affecting, the judgment may be reviewed on the appeal from the judgment.
356. Judgment on appeal.
357. Time for appealing.

SEC. 349. Writs of error in civil and criminal actions, as they have heretofore existed, are abolished; and the only mode of reviewing a judgment or order in a civil or criminal action shall be that prescribed by this Title.

Writs of error abolished and appeals substituted.

SEC. 350. An order, made out of Court, without notice to the adverse party, may be vacated or modified, without notice, by the Judge who made it, or may be vacated or modified, on notice, in the manner in which other motions are made.

Orders made out of Court, how vacated or modified.

SEC. 351. Any party aggrieved may appeal in the cases prescribed in this Title.

Who may appeal.

SEC. 352. The party appealing shall be known as the appellant, and the adverse party as the respondent. But the title of the action shall not be changed in consequence of the appeal.

Parties, how designated on appeal.

SEC. 353. (1.) An appeal must be made by the service of a notice, in writing, on the adverse party, and on the Clerk with whom the judgment or order appealed from is entered, stating the appeal from the same or some specified part thereof. (2.) When a party shall give, in good faith, notice of appeal from a judgment or order, and shall omit, through mistake, to do any other act necessary to perfect the appeal or to stay proceedings, the Court may permit an amendment on such terms as may be just.

Appeal, how made.

SEC. 354. If the appellant shall not, within twenty days after his appeal is perfected, cause a certified copy of the notice of appeal and of the judgment roll, or, if the appeal be from an order or any part thereof, a certified copy of such order, and the papers upon which the order was granted, to be transmitted to the Appellate Court by the Clerk with whom the notice of appeal is filed, the respondent may cause such certified copy to be transmitted by such Clerk to the Appellate Court, and recover the expenses thereof, as a disbursement on such appeal, in case the judgment order appealed from shall be in whole or in part affirmed; and this provision shall apply to all appeals heretofore taken, where the appeal has not been dismissed in the manner provided by the rules of the Appellate Court.

Of transmission of papers to Appellate Court.

SEC. 355. Upon an appeal from a judgment, the Court may review any intermediate order involving the merits, and necessarily affecting the judgment.

Intermediate orders affecting judgment

SEC. 356. Upon an appeal from a judgment or order, the Appellate Court may reverse, affirm or modify the judgment or order appealed from, in the respect mentioned in the notice of appeal, and as to any or all of the parties, and may, if necessary or proper, order a new trial. When the judgment is reversed or modified, the Appellate Court may make complete restitution of all property and rights lost by the erroneous judgment.

Judgment on appeal.

Restitution.

Time for appealing.

SEC. 357. The appeal to the Supreme Court, under sub-division two of Section 11 of this Code of Procedure, must be taken within sixty days after written notice of the order shall have been given to the party appealing; every other appeal allowed by the second Chapter of this Title must be taken within two years after the judgment shall be perfected by filing the judgment roll.

CHAPTER 2.—*Appeals to the Supreme Court.*

SEC.
358. Appeal, in what cases.
359. On appeal, security must be given or deposit made, unless waived.
360. On judgment for money, security to stay execution. New undertaking, on sureties in the first becoming insolvent.
361. If judgment be to deliver document or personal property, it must be deposited or security given
362. If judgment be to execute conveyance, it must be executed and deposited.
363. Security where judgment is to deliver real property, or for a sale of mortgaged premises.
364. Stay of proceedings upon security being given.
365. Undertakings may be in one instrument or several.
366. Security to be approved and sureties to justify.
367. Perishable property may be sold, notwithstanding appeal.
368. Undertaking must be filed.

Appeal, in what cases.

The judgment on a verdict subject to opinion of the Court.

SEC. 358. An appeal may be taken to the Supreme Court in the cases mentioned in Section eleven. When the Circuit Court shall render judgment upon a verdict taken, subject to the opinion of the Court, the questions or conclusions of law, together with a concise statement of the facts upon which they arose, shall be prepared by and under the direction of the Court, and shall be filed with the judgment roll, and be deemed a part thereof, for the purposes of a review in the Supreme Court.

The provisions of this Section shall apply to any judgment therein mentioned that has been heretofore rendered, and upon which an appeal has been brought and is now pending, or upon which an appeal shall hereafter be brought. When the return has already been filed with the Clerk of the Supreme Court such statement shall be filed with him, and be deemed a part of such return.

On appeal, security must be given, or deposit made unless waived

SEC. 359. To render an appeal effectual for any purpose, a written undertaking must be executed on the part of the appellant by at least two sureties, to the effect that the appellant will pay all costs and damages which may be awarded against him on the appeal, not exceeding three hundred dollars, or that sum must be deposited with the Clerk with whom the judgment or order was entered, to abide the event of the appeal. Such undertaking or deposit may be waived by a written consent on the part of the respondent.

On judgment for money, security to stay execution

New undertaking on sureties in first becoming insolvent.

SEC. 360. If the appeal be from a judgment directing the payment of money, it shall not stay the execution of the judgment, unless a written undertaking be executed on the part of the appellant, by at least two sureties, to the effect that, if the judgment appealed from, or any part thereof, be affirmed, or the appeal be dismissed, the appellant will pay the amount directed to be paid by the judgment, or the part of such

amount as to which the judgment shall be affirmed, if it be affirmed only in part, and all damages which shall be awarded against the appellant upon the appeal. Whenever it shall be made satisfactorily to appear to the Court that since the execution of the undertaking the sureties have become insolvent, the Court may, by rule or order, require the appellant to execute, file and serve a new undertaking as above: and in case of neglect to execute such undertaking within twenty days after the service of a copy of the rule or order requiring such new undertaking, the appeal may, on motion to the Court, be dismissed with costs. Whenever it shall be necessary for a party to any action or proceeding to give a bond or an undertaking with surety or sureties, he may, in lieu thereof, deposit with the officer or into Court, as the case may require, money to the amount for which such bond or undertaking is to be given. The Court in which such action or proceeding is pending may direct what disposition shall be made of such money, pending the action or proceeding. In any case where, by this Section, the money is to be deposited with an officer, a Judge of the Court, in term or at Chambers, upon the application of either party, may, before such deposit is made, order it to be deposited in Court instead of with such officer; and a deposit, made pursuant to such order, shall be of the same effect as if made with such officer.

If judgment for delivery of documents or personal property it must be deposited or security be given.

SEC. 361. If the judgment appealed from direct the assignment or delivery of documents or personal property, the execution of the judgment shall not be stayed by appeal, unless the things required to be assigned or delivered be brought into Court, or placed in the custody of such officer or receiver as the Court shall appoint, or unless an undertaking be entered into on the part of the appellant, by at least two sureties, and in such amount as the Court, or a Judge thereof, shall direct, to the effect that the appellant will obey the order of the Supreme Court upon the appeal.

If to execute conveyance it must be executed and deposited.

SEC. 362. If the judgment appealed from direct the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal until the instrument shall have been executed and deposited with the Clerk with whom the judgment is entered, to abide the judgment of the Supreme Court.

Security in a case where judgment is to deliver real property, or for a sale of mortgaged premises.

SEC. 363. If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the same shall not be stayed, unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that, during the possession of such property by the appellant, he will not commit, or suffer to be committed, any waste thereon, and that, if the judgment be affirmed, he will pay the value of the use and occupation of the property, from the time of the appeal until the delivery of possession thereof, pursuant to the judgment, not exceeding a sum to be fixed by a Judge of the Court by which judgment was rendered, and which shall be specified in the undertaking. When the judgment is for the sale of mortgaged premises, and the pay-

ment of a deficiency arising upon the sale, the undertaking shall also provide for the payment of such deficiency.

Stay of proceedings upon security being given.

SEC. 364. Whenever an appeal is perfected, as provided by Sections three hundred and sixty, three hundred and sixty-one, three hundred and sixty-two, and three hundred and sixty-three, it stays all further proceedings in the Court below upon the judgment appealed from, or upon the matter embraced therein; but the Court below may proceed upon any other matter included in the action, and not affected by the judgment appealed from. And the Court below may, in its discretion, dispense with or limit the security required by Sections three hundred and sixty, three hundred and sixty-one, and three hundred and sixty-three, when the appellant is an executor, administrator, trustee, or other person acting in another's right; and may also limit such security to an amount not less than fifty thousand dollars, in the cases mentioned in Sections three hundred and sixty-one, three hundred and sixty-two, and three hundred and sixty-three, where it would otherwise, according to those Sections, exceed that sum.

Undertakings may be in one instrument or several.

SEC. 365. The undertakings prescribed by Sections three hundred and fifty-nine, three hundred and sixty, three hundred and sixty-one, and three hundred and sixty-three, may be in one instrument or several, at the option of the appellant; and a copy, including the names and residence of the sureties, must be served on the adverse party, with a notice of appeal, unless a deposit is made as provided in Section three hundred and fifty-nine, and notice thereof given.

Security to be approved and to justify.

SEC. 366. An undertaking upon an appeal shall be of no effect, unless it be accompanied by the affidavit of the sureties that they are each worth double the amount specified therein. The respondent may, however, except to the sufficiency of the sureties, within ten days after the notice of the appeal; and, unless they or other sureties justify before a Judge of the Court below, as prescribed by Sections 218 and 219, within ten days thereafter, the appeal shall be regarded as if no undertaking had been given. The justification shall be upon a notice of not less than five days.

Perishable property may be sold, notwithstanding appeal.

SEC. 367. In the cases not provided for in Sections 360, 361, 362, 363 and 364, the perfecting of an appeal, by giving the undertaking mentioned in Section 359, shall stay proceedings in the Court below upon the judgment appealed from, except that, where it directs the sale of perishable property, the Court below may order the property to be sold, and the proceeds thereof to be deposited, or invested in this State or United States bonds, to abide the judgment of the Supreme Court.

Undertaking must be filed.

SEC. 368. The undertaking must be filed with the Clerk with whom the judgment or order appealed from was entered. The provisions of this Chapter, as to the security to be given upon appeals, and as to the stay of proceedings, shall apply to appeals taken under sub-division three of Section 11.

CHAPTER 3.—*Appeal to the Circuit Court from an Inferior Court.*

SEC.
369. By what Courts judgments to be reviewed. New trial.
370. Appeal, when to be taken.
371. Notice of appeal to be served on Justice, and costs of return to be paid.
372. Security to stay execution.
373. Form of undertaking.
374. Execution, how stayed.
375. In case of death of Justice, undertaking to be filed.
376. Filing in lieu of service of notice of appeal.
377. Return, when and how made and compelled.
378. How made if Justice be out of office.
379. Further return.
380. Justice dead, insane or absent.
381. Hearing upon return.
382. Appeal to be heard on the original papers.
383. Judgment on appeal. New trial.
384. Judgment roll.
385. Costs, how awarded.
386. Restitution.
387. Setting off costs and recovery.
388. The costs on appeal.

SEC. 369. When a judgment is rendered by a Trial Justice's Court, by the County Commissioners, or any other inferior Court or jurisdiction, save the Probate Court heretofore provided for in this Code of Procedure, the appeal shall be to the Circuit Court of the County wherein the judgment was rendered. On such appeal, when the amount of the claim or claims for which judgment was demanded by either party in his pleadings in the Court below shall exceed ten dollars, or when, in an action to recover the possession of personal property, the value of the property as assessed, and the damages recovered shall exceed ten dollars, exclusive of costs, a new trial shall be had in the Circuit Court in the following appellate cases:

Judgment to be reviewed, by what Court

New trial.

1. When the judgment was rendered upon an issue of law joined between the parties;

2. When it was rendered upon an issue of fact joined between parties, whether the defendant was present at the trial or not: *Provided, however*, That the appellant may, in cases where the amount for which judgment is demanded by either party in his pleadings exceeds ten dollars, or where, in an action to recover the possession of personal property, the value of the property as assessed, and the damages recovered, shall exceed ten dollars, exclusive of costs, state in the notice of appeal that such appeal is taken upon questions of law only, in which case a new trial shall not be had in the appellate Court, but the appeal shall be heard and determined in the same manner as if such amount, or said value and damages, were ten dollars or under.

SEC. 370. The appellant shall, within five days after judgment, serve a notice of appeal, stating the grounds upon which the appeal is founded. If the judgment is rendered upon process not personally served, and the defendant did not appear, he shall have five days, after personal notice of the judgment, to serve the notice of appeal provided for in this and the next Section.

Appeal, when to be taken.

SEC. 371. The notice of appeal must, within the same time, be served on the Trial Justice personally, if living and within the County, or on his Clerk, if there be one, and on the respondent personally, or by leaving it at his residence, with some person of suitable age and discretion; or in case the respondent is not a resident of such County, or cannot, after due diligence, be found therein, in the same manner, on the attorney or agent, if any, who is a resident of such County, who appeared for the respondent

Notice of appeal to be served on Trial Justice, and costs, &c., to be paid.

on the trial; and, if neither the respondent nor such agent or attorney can be found in the County, the notice may be served on the respondent by leaving it with the Clerk of the appellate Court; and the appellant must, at the time of the service of the notice of appeal on the Trial Justice, or on his Clerk, as herein provided, pay to such Trial Justice or Clerk the costs of the action included in the judgment, together with two dollars costs of the return, which shall be included in the judgment for costs on reversal. The appellant shall also execute, on the appeal, a written undertaking on his part, with one or more sufficient sureties, to the effect that the appellant will pay all costs, disbursements and extra costs, awarded against him in the Court below, if such judgment shall be affirmed by the appellate Court, on such appeal, together with all costs and damages which may be awarded against him thereon; such sureties to justify in double the amount specified in the undertaking; such undertaking and the sufficiency of the sureties to be approved by the Trial Justice of the Court below, or the appellant may deposit, with the Clerk of the Court of Common Pleas, the costs, disbursements, and extra costs included in the judgment in the Court below, and the sum of fifteen dollars, to meet any costs that may be awarded against him on such appeal; the undertaking, when executed and approved, to be filed with the Clerk of the Circuit Court; the amount so deposited shall be repaid by the said Clerk to the appellant, if he succeed on the appeal; and, in case the judgment be affirmed, the said Clerk shall, after the execution is issued, pay over the amount so deposited to the respondent, which shall be credited on the execution issued on the judgment of affirmance, to the extent thereof, and the balance, if any, on the execution issued on the judgment appealed from.

Security to stay execution.

SEC. 372. When, by the terms of Section 369, the appellant is entitled to a new trial in the appellate Court, he shall, at the time of making the appeal, and in all other cases, if he desires a stay of execution of the judgment, give security as provided in the next Section.

Form of undertaking.

SEC. 373. The security shall be a written undertaking, executed by one or more sufficient sureties, approved by the Court below, to the effect that if judgment be rendered against the appellant, and execution thereon be returned unsatisfied in whole or in part, the sureties will pay the amount unsatisfied.

Execution, how stayed.

SEC. 374. The delivery of the undertaking to the Court below shall stay the issuing of execution; or, if it have been issued, the service of a copy of the undertaking, certified by the Court below, upon the officer holding the execution, shall stay further proceedings thereon.

In case of death of Trial Justice, undertaking to be filed.

SEC. 375. Where, by reason of the death of a Trial Justice, or his removal from the County, or any other cause, the undertaking on the appeal cannot be delivered to him, it shall be filed with the Clerk of the appellate Court, and notice thereof given to the respondent, or his attorney or agent, as provided in Section 371, it shall thereupon have the same effect as if delivered to the Trial Justice.

Filing in lieu of service of notice of appeal.

SEC. 376. When, by reason of the death of a Trial Justice, or his absence from the County, or any other cause, the notice of appeal cannot be served, as provided by Section 370, it may be served by leaving the same with the Clerk of the County.

Return, when and how made and compelled.

SEC. 377. The Court below shall thereupon, after ten days, and within thirty days after service of the notice of appeal, make a return to the appellate Court of the testimony, proceedings and judgment, and file the same in the appellate Court. The return may be compelled by attachment. But no Trial Justice shall be bound to make a return unless the fees prescribed by the last Section of this Chapter be paid on the service of the notice of appeal: *Provided, however,* That in cases where the amount for which judgment is demanded by either party in his pleadings in the Court below exceeds ten dollars, or where the value of the property recovered, as appears from the verdict or judgment, shall exceed ten dollars, the testimony need not be returned; but, in such case, the Court below shall return the process by which the action was commenced, with the proof of service thereof, and the pleadings or copies thereof, the proceedings and judgment, together with a brief statement of the amount and nature of the claim or claims litigated by the respective parties, and in all cases the notice of appeal shall be annexed to the return; but in cases where the appellant shall, in accordance with the provisions of Section 369 of this Code of Procedure, state in the notice of appeal that such appeal is taken upon questions of law only, the Court below shall return the appellate Court the testimony, proceedings, and judgment.

How made if Trial Justice be out of office.

SEC. 378. When a Trial Justice, by whom a judgment appealed from was rendered, shall have gone out of office before a return is ordered, he shall, nevertheless, make a return in the same manner, and with the like effect, as if he were still in office.

Further return.

SEC. 379. If the return be defective, the appellate Court may direct a further or amended return as often as may be necessary, and may compel a compliance with its order by attachment. And the Court shall always be deemed open for these purposes.

Trial Justice deceased insane or absent

SEC. 380. If a Trial Justice whose judgment is appealed from shall die, become insane, or remove from the State, the appellate Court may examine witnesses on oath, to the facts and circumstances of the trial or judgment, and determine the appeal, as if the facts had been returned by the Trial Justice. If he shall have removed to another County within the State, the appellate Court may compel him to make the return, as if he were still within the County where the judgment was rendered.

Hearing upon return.

SEC. 381. If a return be made, and the appeal is from a judgment where a new trial may not be had, as provided by this Chapter, it may be brought to a hearing, upon notice by either party of not less than eight days. It shall be placed upon the calendar, and continue thereon

without further notice until finally disposed of. But if neither party bring it to a hearing before the end of the second term, the Court shall dismiss the appeal, unless it continue the same by special order, for cause shown. If the appeal is from a judgment where a new trial may be had, it may be brought to a hearing or trial at any term of the Court at which a petit jury shall be summoned to attend. At least eight days before the Court, the party desiring to bring on the appeal shall serve a note of issue on the Clerk, and the Clerk shall thereupon enter the cause on the calendar, according to the date of the return.

Dismissing appeal if not brought on.

And the provisions of this Chapter for a new trial shall apply as well to appeals heretofore taken and now pending as those hereafter to be brought.

New trial.

SEC. 382. The appeal shall be heard on the original papers, and no copy thereof need be furnished for the use of the Court.

To be heard on the original papers.

SEC. 383. Upon hearing the appeal, the appellate Court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment the Court may affirm or reverse the judgment of the Court below, in whole or in part, and as to any or all the parties, and for errors of law or fact. If the appeal is founded on an error in fact in the proceedings, not affecting the merits of the action, and not within the knowledge of the Trial Justice, the Court may determine the alleged error in fact on affidavits, and may, in its discretion, inquire into and determine the same upon examination of the witnessess. If the defendant failed to appear before the Trial Justice, and it is shown by the affidavits served by the appellant, or otherwise, that manifest injustice has been done, and he satisfactorily excuses his default, the Court may, in its discretion, set aside or suspend judgment, and order a new trial, before the same or any other Trial Justice in the same County, at such time and place, and on such terms, as the Court may deem proper. Where a new trial shall be ordered before a Trial Justice, the parties must appear before him according to the order of the Court, and the same proceedings must thereupon be had in the action as on the return of a summons personally served. If the appeal shall be from a judgment in which a new trial may be had, as in this Chapter provided, the Court shall proceed to the hearing of the cause, if the issue joined before the Trial Justice was an issue of law, or to the trial thereof by jury, if such issue was upon a question of fact:—

Judgment on appeal.

1. If the issue joined before the Trial Justice was an issue of law, the Court shall render judgment thereon according to the law of the case; and, if such judgment be against the pleadings of either party, an amendment of such pleading may be allowed on the same terms, and in like case, as pleadings in actions in the Circuit Court, and the Court may thereupon require the opposite party to answer such amended pleading, or join issue thereon, as the case may require, summarily;

2. If, upon an appeal in an issue of law, the Court should adjudge the pleading complained of to be valid, it shall, in like manner, require the

opposite party summarily to answer such pleading, or join issue thereon, as the case may require.

3. Upon an issue of fact being so joined, the Court shall proceed to hear the same trial by a jury in the same manner as issues joined in the Circuit Court.

4. Every issue of fact so joined or brought upon an appeal shall be tried in the same manner as in actions commenced in the Circuit Court.

5. The Court shall have the same power over its own determinations, and the verdict of the jury, and shall render judgment thereon in the same manner as the Circuit Court in actions pending therein, and may allow either party to amend his pleadings upon such terms as shall be just in cases where a new trial may be had, as in this Chapter provided; and in any such appeal on which a new trial is to be had, either party may, at any time before the trial, serve upon the opposite party an offer, in writing, to allow judgment to be taken against him for the sum or property, or to the effect in such offer specified, and with or without costs, as said offer shall specify. If the party receiving such offer accept the same, and give notice thereof in writing within ten days, he may file the return and offer, with an affidavit of service of notice of acceptance thereof, and the Clerk shall thereupon enter judgment according to said offer. And if the party making such offer shall have given an undertaking upon the appeal, the parties executing such undertaking shall be liable thereon for the payment of the judgment entered by virtue of said offer. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence. And if the party to whom such offer is made fail to obtain a judgment more favorable to him than that specified in said offer, then he shall not recover costs, but must pay the other party's costs from the date of the service of the offer.

6. Either party may move for a new trial in said Court on a case or exception, or otherwise, and such motion may be made before or after judgment has been entered; and the provisions of this Code of Procedure in relation to the proceedings on receiving the verdict of a jury, exceptions to the decisions of the Court, making and settling cases and exceptions, motions for new trials, and making up the judgment roll in the Circuit Court, are hereby made applicable to all appeals brought up for trial, as in this Chapter provided.

Judgment-roll.

SEC. 384. To every judgment upon an appeal there shall be annexed the return on which it was heard, the notice of appeal, with any offer, verdict, decision of the Court, exceptions, case, and all orders and papers in any way involving the merits and necessarily affecting the judgment, which shall be filed with the Clerk of the Court, and shall constitute the judgment roll.

Costs, how awarded.

SEC. 385. If the judgment be affirmed, costs shall be awarded to the respondent. If it be reversed, costs shall be awarded to the appellant. If it be affirmed in part, the costs, or such part as to the Court shall seem just, may be awarded to either party.

Restitution.

SEC. 386. If the judgment below, or any part thereof, be paid or collected, and the judgment be afterwards reversed, the appellate Court shall order the amount paid or collected to be restored, with interest from the time of such payment or collection. The order may be obtained on proof of the facts made at or after the hearing, upon a previous notice of six days; and if the order shall be made before the judgment is entered, the amount may be included in the judgment.

Setting off costs and recovery.

SEC. 387. If, upon an appeal, a recovery be had by one party, and costs be awarded to the other, the appellate Court shall set off the one against the other, and render judgment for the balance.

The costs on appeal.

SEC. 388. Costs shall be allowed to the prevailing party, in judgments rendered on appeal, in all cases, with the following exceptions and limitations: In the notice of appeal, the appellant shall state in what particular or particulars he claims the judgment should have been more favorable to him. If he claims that the amount of judgment is less favorable to him than it should have been, he shall state what should have been its amount. Within fifteen days after the service of the notice of appeal, the respondent may serve upon the appellant and Trial Justice an offer, in writing, to allow the judgmeat to be corrected in any of the particulars mentioned in the notice of appeal. The appellant may thereupon, and within five days thereafter, file with the Trial Justice a written acceptance of such offer, who shall thereupon make a minute thereof in his docket, and correct such judgment accordingly, and the same, so corrected, shall stand as his judgment, and be enforced accordingly; and any execution which has been issued upon the judgment appealed from shall be amended by the Trial Justice to correspond with the amended judgment; and no undertaking given to stay execution shall be enforced for more than the amount of the corrected judgment. If such offer be not made, and the judgment in the appellate Court be more favorable to the appellant than the judgment in the Court below, or if such offer be made and not accepted, and the judgment in the appellate Court be more favorable to the appellant than the offer of the respondent, the appellant shall recover costs: *Provided, however*, That the appellant shall not recover costs unless the judgment appealed from shall be reversed on such appeal, or be made more favorable to him, to the amount of at least ten dollars. If the offer be made, and accepted by the appellant, the appellant shall recover all his disbursements on appeal, and all his costs in the Court below. But the appellant shall not recover costs, except as provided in this Chapter. The respondent shall be entitled to recover costs where the appellant is not. Whenever costs are awarded to the appellant, he shall be allowed to tax as part thereof the costs and fees paid to the Trial Justice, on making the appeal, as disbursements, in addition to the costs in the appellate Court; and when the judgment in the suit before the Court below was against such appellant, he shall further be allowed to tax the costs incurred by him which he would have been entitled to recover in case the judgment below has been rendered in his favor. If, upon an appeal, a recovery for any debt or damages be had by one party, and costs be awarded to the

other party, the Court shall set off such costs against such debt or damages, and render judgment for the balance. The following fees and costs, and no other, except fees of officers, disbursements and witnesses' fees, shall be allowed, on appeal, to the party entitled to costs, as herein provided, when the new trial is in the Circuit Court: For proceedings before notice of trial, five dollars; for all subsequent proceedings before trial, three dollars; for trial of an issue of law, five dollars; for every trial of an issue of fact, seven dollars; for argument of a motion for a new trial on a case or a bill of exceptions, five dollars; in all cases, to either party, for every term, not exceeding five, at which the appeal is necessarily on the calendar, and is not tried or is not postponed by the Court, five dollars. In other appeals, the costs shall be as follows: To the appellant, on reversal, seven dollars; to the respondent, on the affirmance, seven dollars. If the judgment appealed from be reversed in part, and affirmed as to the residue, the amount of costs allowed to either party shall be such sum as the appellate Court may award, not exceeding five dollars. If the appeal be dismissed for want of prosecution, as provided by Section 381, no costs shall be allowed to either party. In every appeal, the Court below, before whom the judgment appealed from was rendered, shall receive one dollar for his return. If the judgment be reversed for an error of fact in the proceedings, not affecting the merits, costs shall be in the discretion of the Court. If, in the notice of appeal, the appellant shall not state in what particular or particulars he claims the judgment should have been more favorable to him, he shall not be entitled to costs, unless the judgment appealed from shall be wholly reversed.

TITLE 12.—Of the Miscellaneous Proceedings in Civil Actions, and General Provisions.

CHAPTER 1. Submitting a Controversy without Action.
2. Proceedings against Joint Debtors, Heirs, Legatees, Devisees, and Tenants Holding Under a Judgment Debtor.
3. Confession of a Judgment without Action.
4. Offers of the Defendant to Compromise the Whole or a Part of the Action.
5. Admission or Inspection of Writings.
6. Examination of Parties.
7. Examination of Witnesses.
8. Motions and Orders.
9. Entitling Affidavits.
10. Computation of Time.
11. Notices, and Filing and Service of Papers.
12. Duties of Sheriffs and Coroners.
13. Accountability of Guardians.
14. Powers of Referees.
15. Miscellaneous Provisions.

CHAPTER 1.—*Submitting a Controversy without Action.*

SEC.
389. Controversy, how submitted without action.
390. Judgment, how enforced.
391. Judgment, how enforced or appealed from.

Controversy, how submitted without action.

SEC. 389. Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any Court which would have jurisdiction if an action had been brought. But it must appear by affidavit that the controversy is real, and the proceedings in good faith, to determine the rights of the parties. The Court shall thereupon hear and determine the case, and render judgment thereon, as if an action were depending.

Judgment.

SEC. 390. Judgment shall be entered in the judgment-book, as in other cases, but without costs for any proceeding prior to notice of trial. The case, the submission, and a copy of the judgment, shall constitute the judgment-roll.

Judgment, how enforced or appealed from.

SEC. 391. The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be subject to appeal in like manner.

CHAPTER 2.—*Proceedings against Joint Debtors, Heirs, Devisees, Legatees, and Tenants Holding under a Judgment Debtor.*

SEC.
392. Parties, not summoned in action on joint contract, may be summoned after judgment
393. If judgment debtor die, his representative may be summoned.
394. Form of summons.
395. Summons to be accompanied by affidavit of amount due.
396. Party summoned may answer and defend.
397. Subsequent pleadings and proceedings the same as in an action.
398. Answer and reply to be verified as in an action.

Parties not summoned in action on a joint contract may be summoned after judgment

SEC. 392. When a judgment shall be recovered against one or more of several persons jointly indebted upon a contract, by proceeding as provided in Section 159, those who were not originally summoned to answer the complaint may be summoned to show cause why they should not be bound by the judgment, in the same manner as if they had been originally summoned.

If a judgment debtor die, his representatives to be summoned.

SEC. 393. In case of the death of a judgment debtor after judgment, the heirs, devisees or legatees of the judgment debtor, or the tenants of real property owned by him and affected by the judgment, may, at any time within three years from the time of granting letters testamentary or of administration upon the estate of the testator or intestate, be summoned to show cause why the judgment should not be enforced against the estate of the judgment debtor in their hands respectively; and the personal representatives of a deceased judgment debtor may be summoned at any time within one year after their appointment.

SEC. 394. The summons provided in the last two Sections shall be subscribed by the judgment creditor, his representative or attorney, shall describe the judgment, and require the person summoned to show cause, within twenty days after the service of the summons; and shall be served in like manner as the original summons. Form of summons.

SEC. 395. The summons shall be accompanied by an affidavit of the person subscribing it, that the judgment has not been satisfied, to his knowledge or information and belief, and shall specify the amount due thereon. To be accompanied by affidavit of the amount due.

SEC. 396. Upon such summons any party summoned may answer within the time specified therein, denying the judgment, or setting up any defence thereto, which may have arisen subsequently to such judgment; and, in addition thereto, if the party be proceeded against according to Section 392, he may make any defence which he might have made to the action if the summons had been served on him at the time when the same was originally commenced and such defence had been then interposed to such action. Party summoned to answer and defend

SEC. 397. The party issuing the summons may demur or reply to the answer, and the party summoned may demur to the reply; and the issues may be tried and judgment may be given in the same manner as in an action, and enforced by execution; or the application of the property charged to the payment of the judgment may be compelled by attachment, if necessary. Subsequent pleadings and proceedings same as in action.

SEC. 398. The answer and reply shall be verified in the like cases and manner, and be subject to the same rules, as the answer and reply in an action. Answer and reply to be verified as in an action.

CHAPTER 3.—*Confession of Judgment without Action.*

SEC.
399. Judgment may be confessed for debt due or for contingent liability.
400. Statement in writing, and form thereof.
401. Judgment and execution.

SEC. 399. A judgment by confession may be entered, without action, either for money due, or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed in this Chapter. Of judgment by confession.

SEC. 400. A statement in writing must be made, signed by the defendant, and verified by his oath, to the following effect— Statement in writing and form thereof.

1. It must state the amount for which judgment may be entered, and authorize the entry of judgment therefor;

2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and must show that the sum confessed therefor is justly due, or to become due;

3. If it be for the purpose of securing the plaintiff against a contingent liability, it must state concisely the facts constituing the liability, and must show that the sum confessed therefor does not exceed the same.

Judgment and execution.

SEC. 401. The statement may be filed with a County Clerk, who shall endorse upon it, and enter in the Judgment Book, a judgment for the amount confessed, with five dollars costs, together with disbursements. The statement and affidavit, with the judgment endorsed, shall thereupon become the judgment roll. Executions may be issued and enforced thereon, in the same manner as upon judgments in other cases in such Courts. When the debt for which the judgment is recovered is not all due, or is payable in installments, and the installments are not all due, the execution may issue upon such judgment for the collection of such installments as have become due, and shall be in the usual form, but shall have endorsed thereon, by the attorney or person issuing the same, a direction to the Sheriff to collect the amount due on such judgment, with interest and costs, which amount shall be stated, with interest thereon, and the costs of said judgment. Notwithstanding the issue and collection of such execution, the judgment shall remain as security for the installments thereafter to become due; and whenever any further installments become due execution may, in like manner, be issued for the collection and enforcement of the same.

CHAPTER 4. *Offer of the Defendant to Compromise the Whole or a Part of the Action.*

SEC.
402. Offer of compromise.
403. Defendant may offer to liquidate damages.
SEC.
404. Effect of acceptance or refusal of offer.

Offer of compromise.

SEC. 402. The defendant may, at any time before the trial or verdict, serve upon the plaintiff an offer in writing to allow judgment to be taken against him for the sum or property, or to the effect therein specified, with costs. If the plaintiff accept the offer, and give notice thereof in writing within ten days, he may file the summons, complaint and offer, with an affidavit of notice of acceptance, and the Clerk must thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence; and if the plaintiff fail to obtain a more favorable judgment, he cannot recover costs, but must pay the defendant's costs from the time of the offer; and in case the defendant shall set up a counter claim in his answer to an amount greater than the plaintiff's claim, or sufficient to reduce the plaintiff's recovery below fifty dollars, then the plaintiff may serve upon the defendant an offer in writing to allow judgment to be taken against him for the amount specified, or to allow said counter claim to the amount specified, with costs. If the defendant accept the offer, and give notice

thereof in writing within ten days, he may enter judgment as above for the amount specified, if the offer entitled him to judgment, or the amount specified in said offer shall be allowed him in the trial of the action. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence; and if the defendant fail to recover a more favorable judgment, or to establish his counter claim for a greater amount than is specified in said offer, he cannot recover costs, but must pay the plaintiff's costs from the time of the offer.

Defendant may offer to liquidate damages conditionally.

SEC. 403. In an action arising on contract, the defendant may, with his answer, serve upon the plaintiff an offer in writing that, if he fail in his defence, the damages be assessed at a specified sum; and if the plaintiff signify his acceptance thereof in writing, with or before the notice of trial, and on the trial have a verdict, the damages shall be assessed accordingly.

Effect of acceptance or refusal of offer.

SEC. 404. If the plaintiff do not accept the offer, he shall prove his damages as if it had not been made, and shall not be permitted to give it in evidence. And if the damages assessed in his favor shall not exceed the sum mentioned in the offer, the defendant shall recover his expenses incurred in consequence of any necessary preparation or defence in respect to the question of damages. Such expense shall be ascertained at the trial.

CHAPTER 5.—*Admission or Inspection of Writings.*

SEC. 405. Inspection and copy of books, papers, &c., how obtained.

Inspection and copy of books, papers, &c., how obtained.

SEC. 405. Either party may exhibit to the other, or to his attorney, at any time before the trial, any paper material to the action, and request an admission in writing of its genuineness. If the adverse party, or his attorney, fail to give the admission, within four days after the request, and if the party exhibiting the paper be afterwards put to expense in order to prove its genuineness, and the same be finally proved or admitted on the trial, such expense, to be ascertained at the trial, shall be paid by the party refusing the admission, unless it appear to the satisfaction of the Court that there were good reasons for the refusal. The Court before which an action is pending, or a Judge or Justice thereof, may, in their discretion, and upon due notice, order either party to give to the other, within a specified time, an inspection and copy, or permission to take a copy, of any books, papers and documents in his possession or under his control, containing evidence relating to the merits of the action or the defence therein. If compliance with the order be refused, the Court, on motion, may exclude the paper from being given in evidence, or punish the party refusing, or both.

CHAPTER 6.—*Examination of Parties.*

SEC.
406. Action for discovery abolished.
407. A party may examine his adversary as a witness.
408. Such examination also allowed before trial. Proceedings therefor.
409. Party, how compelled to attend.
410. Testimony of party may be rebutted.
411. Effect of refusal to testify.
412. Testimony of a party not responsive to the inquiries may be rebutted by the oath of the party calling him.
413. Persons for whom action is brought or defended may be examined.
414. Examination of co-plaintiff or co-defendant.

Action for discovery under oath abolished.

SEC. 406. No action to obtain discovery under oath, in aid of the prosecution or defence of another action, shall be allowed, nor shall any examination of a party be had, on behalf of the adverse party, except in the manner prescribed by this Chapter.

A party may examine his adversary as a witness.

SEC. 407. A party to an action may be examined as a witness, at the instance of the adverse party, or of any one of several adverse parties, and for that purpose may be compelled, in the same manner, and subject to the same rules of examination as any other witness, to testify, either at the trial, or conditionally, or upon commission.

Such examination also allowed before trial: proceedings therefor.

SEC. 408. The examination, instead of being had at the trial, as provided in the last Section, may be had at any time before trial, at the option of the party claiming it, before a Judge of the Court, on a previous notice to the party to be examined, and any other adverse party, of at least five days, unless, for good cause shown, the Judge order otherwise. But the party to be examined shall not be compelled to attend in any other County than that of his residence, or where he may be served with a summons for his attendance.

Party, how compelled to attend.

SEC. 409. The party to be examined, as in the last Section provided, may be compelled to attend in the same manner as a witness who is to be examined conditionally; and the examination shall be taken and filed by the Judge in like manner, and may be read by either party on the trial.

Testimony of party may be rebutted.

SEC. 410. The examination of the party, thus taken, may be rebutted by adverse testimony.

Effect of refusal to testify.

SEC. 411. If a party refuse to attend and testify, as in the last four Sections provided, he may be punished as for a contempt, and his complaint, answer or reply may be stricken out.

Testimony by a party not responsive to the inquiries may be rebutted by oath of the party calling him.

SEC. 412. A party examined by an adverse party, as in this Chapter provided, may be examined on his own behalf, subject to the same rules of examination as other witnesses. But if he testify to any new matter, not responsive to the inquiries put to him by the adverse party, or necessary to explain or qualify his answers thereto, or discharge when his answers would charge himself, such adverse party may offer himself as a witness on his own behalf in respect to such new matter, subject to the same rules of examination as other witnesses, and shall be so received.

SEC. 413. A person for whose immediate benefit the action is prosecuted or defended, though not a party to the action, may be examined as a witness, in the same manner, and subject to the same rules of examination, as if he were named as a party.

Persons for whom action is brought or defended may be examined.

SEC. 414. A party may be examined on behalf of his co-plaintiff, or of a co-defendant, as to any matter in which he is not jointly interested or liable with such co-plaintiff or co-defendant, and as to which a separate and not joint verdict or judgment can be rendered. And he may be compelled to attend in the same manner as at the instance of an adverse party; but the examination thus taken shall not be used in the behalf of the party examined. And whenever, in the case mentioned in Sections 407 and 408, one of the several plaintiffs or defendants who are joint contractors, or are united in interest, is examined by the adverse party, the other of such plaintiffs or defendants may offer himself as a witness to the same cause or action or defence, and shall be so received.

Examination of co-plaintiff or co-defendant.

CHAPTER 8.—*Examination of Witnesses*

SEC.
414. Interest not to exclude a witness.
415. Parties to actions and special proceedings may be witnesses on their own behalf, except in certain cases.

SEC. 414. No person offered as a witness shall be excluded by reason of his interest in the event of the action.

Interest not to exclude a witness.

SEC. 415. A party to an action or special proceeding in any and all Courts, and before any and all officers and persons acting judicially, may be examined as a witness on his own behalf, or in behalf of any other party, conditionally, on commission and upon the trial or hearing in the case, in the same manner and subject to the same rules of examination as any other witness: *Provided, however,* That no party to the action or proceeding, nor any person who has a legal or equitable interest which may be affected by the event of the action or proceeding, nor any person who, previous to such examination, has had such an interest, however the same may have been transferred to, or come to, the party to the action or proceeding, nor any assignor of anything in controversy in the action, shall be examined in regard to any transaction or communication between such witness and a person, at the time of such examination, deceased, insane or lunatic, as a witness against a party then prosecuting or defending the action as executor, administrator, heir-at-law, next of kin, assignee, legatee, devisee, or survivor of such deceased person, or as assignee or committee of such insane person or lunatic, when such examination, or any judgment or determination in such action or proceeding, can in any manner affect the interest of such witness or the interest previously owned or represented by him. But when such executor, administrator, heir-at-law, next of kin, assignee, legatee, devisee, survivor or committee, shall be examined on his own behalf in regard to such transaction or communication, or the testimony of such deceased or insane person or lunatic, in regard to

Parties to actions and special proceedings may be examined as witnesses on their own behalf, except in certain cases.

such transaction or communication, (however the same may have been perpetuated or made competent,) shall be given in evidence on the trial or hearing in behalf of such executor, administrator, heir-at-law, next of kin, assignee, legatee, devisee, survivor or committee, then all other persons not otherwise rendered incompetent shall be made competent witnesses in relation to such transaction or communication on said trial or hearing. Nothing contained in Section 8 of this Code of Procedure shall be held or construed to affect or restrain the operation of this Section:—

Husband or wife may be compelled to testify.

1 N. & McC., 375.

1. In any trial or inquiry in any suit, action or proceeding in any Court, or before any person having, by law or consent of parties, authority to examine witnesses or hear evidence, the husband or wife of any party thereto, or of any person in whose behalf any such suit, action or proceeding is brought, prosecuted, opposed or defended, shall, except as hereinafter stated, be competent and compellable to give evidence, the same as any other witness, on behalf of any party to such suit, action or proceeding.

2. Nothing herein contained shall render any husband or wife competent or compellable to give evidence for or against the other in any criminal action or proceeding, (except to prove the fact of marriage in case of bigamy,) or in any action or proceeding instituted in consequence of adultery, or in any action or proceeding for divorce on account of adultery, (except to prove the fact of marriage,) or in any action or proceeding for or on account of criminal conversation.

3. No husband or wife shall be compellable to disclose any confidential communication made by one to the other during their marriage.

Chapter 8.—*Motions and Orders.*

Sec.
416. Definition of an order.
417. Definition of a motion. Motions, how and when made. Stay of proceedings. Compelling parties to testify on motions. Decision on motion.
418. Notice of motion.
419. In absence, &c., of Judge at Chambers, motion may be transferred to another Judge.
420. Enlarging time for the proceedings in an action.

Definition of an order.

Sec. 416. Every direction of a Court or Judge, made or entered in writing, and not included in a judgment, is denominated an order.

Definition of a motion. Motions, how and when made.

Sec. 417. 1. An application for an order is a motion;

2. Motions may be made to a Judge or Justice out of Court, except for a new trial on the merits;

3. Orders made out of Court, without notice, may be made by the Judge of the Court, in any part of the State;

4. Motions upon notice must be made within the Circuit in which the action is triable, or, in the absence or inability of the Judge of the Circuit, may be made before the Judge of a Circuit adjoining that in which it is triable;

5. A motion to modify or vacate a provisional remedy, and an appeal from an order allowing a provisional remedy, shall have preference over all other motions.

Stay of proceedings.

6. No order to stay proceedings for a longer time than twenty days shall be granted by a Judge out of Court, except upon previous notice to the adverse party.

Compelling parties to testify.

7. When any party intends to make or oppose a motion in any Court of record, and it shall be necessary for him to have the affidavit of any person who shall have refused to make the same, such Court may, by order, appoint a referee to take the affidavit or deposition of such person. Such person may be subpœnaed and compelled to attend and make an affidavit before such referee, the same as before a referee to whom it is referred to try an issue. And the fees of such referee for such service shall be three dollars per day.

Decision on motion.

8. Whenever a motion shall be made in any cause or proceeding in any of the Courts in this State to obtain an injunction order, order of arrest, or warrant of attachment, granted in any such case or proceeding, it shall be the duty of the Judge, Trial Justice, or other officer, before whom such motion is made, to render and make known his decision on such motion within twenty days after the day upon which such motion shall or may be submitted to him for his decision.

Notice of a motion.

SEC. 418. When a notice of a motion is necessary, it must be served four days before the time appointed for the hearing; but the Court or Judge may, by an order to show cause, prescribe a shorter time.

In absence, &c., of Judge at Chambers, motion may be transferred by him to another Judge.

SEC. 419. When notice of a motion is given, or an order to show cause is returnable before a Judge out of Court, and at the time fixed for the motion he is absent or unable to hear it, the same may be transferred, by his order, to some other Judge, before whom the motion, in case of his absence or inability, might originally have been made.

Enlarging time for proceedings in an action.

SEC. 420. The time within which any proceeding in an action must be had, after its commencement, except the time within which an appeal must be taken, may be enlarged, upon an affidavit showing grounds therefor, by a Judge of the Circuit Court. The affidavit, or a copy thereof, must be served with a copy of the order, or the order may be disregarded.

CHAPTER 9.—*Entitling Affidavits.*

SEC. 421. Affidavits defectively entitled, valid.

Affidavits defectively entitled, valid.

SEC. 421. It shall not be necessary to entitle an affidavit in the action, but an affidavit made without a title, or with a defective title, shall be as valid and effectual, for every purpose, as if it were duly entitled, if it intelligibly refer to the action or proceeding in which it is made.

CHAPTER 10.—*Computation of Time.*

SEC. 422. Time, how computed.

Time, how computed.

SEC. 422. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

CHAPTER 11.—*Notices, and Filing and Service of Papers.*

SEC.
423. Notices, &c., how served.
424. Service, how made.
425. Service by mail.
426. The like.
427. Double time where service by mail.
428. Notice of motion, &c., where personally served.
429. When papers need not be served on defendant.
430. Service of papers where parties reside out of the State.
431. Summons and pleadings to be filed.
432. Service on attorney.
433. When this Chapter does not apply.

Notices, &c., how served.

SEC. 423. Notices shall be in writing; and notices and other papers may be served on the party or attorney, in the manner prescribed in the next three Sections, where not otherwise provided by this Code of Procedure.

Service, how made.

SEC. 424. The service may be personal, or by delivery to the party or attorney on whom the service is required to be made; or it may be as follows—

1. If upon an attorney, it may be made, during his absence from his office, by leaving it with the clerk therein, or with a person having charge thereof; or, when there is no person in the office, by leaving it, between the hours of six in the morning and nine in the evening, in a conspicuous place in the office; or, if it be not open so as to admit of such service, then by leaving it at the attorney's residence, with some person of suitable age and discretion;

2. If upon a party, it may be made by leaving the paper at his residence between the hours of six in the morning and nine in the evening, with some person of suitable age and discretion.

Service by mail.

SEC. 425. Service by mail may be made where the person making the service and the person on whom it is to be made reside in different places, between which there is a regular communication by mail.

Requisites for such service.

SEC. 426. In case of service by mail, the paper must be deposited in the post office, addressed to the person on whom it is to be served, at his place of residence, and the postage paid.

Double time when served by mail.

SEC. 427. When the service is by mail, it shall be double the time required in cases of personal service, except service of notice of trial, which may be made sixteen days before the day of trial, including the day of service.

Of notice of motion, &c., when personally served.

SEC. 428. Notice of a motion or other proceeding before a Court or Judge, when personally served, shall be given at least four days before the time appointed therefor.

SEC. 429. When a defendant shall not have demurred or answered, service of notice or papers in the ordinary proceedings in an action need not be made upon him, unless he be imprisoned for want of a bail, but shall be made upon him or his attorney, if notice of appearance in the action has been given.

When papers need not be served on defendant.

SEC. 430. Where a plaintiff or a defendant who has demurred or answered, or gives notice of appearance, resides out of the State, and has no attorney in the action, the service may be made by mail, if his residence be known; if not known, on the Clerk, for the party.

Service of papers where parties reside out of State.

SEC. 431. The summons and the several pleadings in an action shall be filed with the Clerk within ten days after the service thereof, respectively; or the adverse party, on proof of the omission, shall be entitled, without notice, to an order from a Judge that the same be filed within a time to be specified in the order, or be deemed abandoned.

Summons and pleadings to be filed.

SEC. 432. Where a party shall have an attorney in the action, the service of papers shall be made upon the attorney, instead of the party.

Service on attorney.

SEC. 433. The provisions of this Chapter shall not apply to the service of a summons or other process, or of any paper to bring a party into contempt.

When this Chapter does not apply.

CHAPTER 12.—*Duties of Sheriffs and Coroners.*

SEC. 434. Duty of Sheriff and Coroner in serving or executing process, and how enforced.

SEC. 434. Whenever, pursuant to this Code, the Sheriff may be required to serve or execute any summons, order or judgment, or to do any other act, he shall be bound to do so in like manner as upon process issued to him, and shall be equally liable in all respects for neglect of duty; and if the Sheriff be a party, the Coroner shall be bound to perform the service, as he is now bound to execute process where the Sheriff is a party; and all the provisions of this Code of Procedure relating to Sheriffs shall apply to Coroners where the Sheriff is a party.

Duty of Sheriff and Coroner in serving or executing process, and how enforced.

CHAPTER 13.—*Accountability of Guardians.*

SEC. 435. Guardian not to receive property until security given.

SEC. 435. No guardian appointed for an infant shall be permitted to receive property of the infant until he shall have given sufficient security, approved by a Probate Judge, to account for and apply the same under the direction of the Court.

Guardian not to receive property until security given.

CHAPTER 14.—*Powers of Referees.*

SEC. 436. Powers of Referees.

Power of Referees.

SEC. 436. Every referee appointed pursuant to this Code of Procedure shall have power to administer oaths in any proceedings before him, and shall have, generally, the powers now vested in a referee by law.

CHAPTER 15.—*Miscellaneous Provisions.*

SEC.
437. Papers lost or withheld, how supplied.
438. Where undertakings to be filed.
439. Judgment on bond and warrant of attorney, executed before January 1, 1870.
440. Time for publication of notices, how computed.
441. Laws of other States and Governments, how proved.

Papers lost or withheld, how supplied.

SEC. 437. If an original pleading or paper be lost or withheld by any person, the Court may authorize a copy thereof to be filed and used instead of the original.

Where undertakings to be filed.

SEC. 438. The various undertakings required to be given by this Code of Procedure must be filed with the Clerk of the Court, unless the Court expressly provides for a different disposition thereof, except that the undertakings provided for by the Chapter on the claim and delivery of personal property, shall, after the justification of the sureties, be delivered by the Sheriffs to the parties, respectively, for whose benefit they are taken.

Judgment on bond and warrant of attorney executed before January 1, 1870.

SEC. 439. Upon any bond and warrant of attorney, executed and delivered before the first day of January, 1870, judgment may be entered in the manner provided by Sections three hundred and ninety-nine, four hundred, and four hundred and one, upon the plaintiff's filing such bond and warrant of attorney, and the statement, signed and verified by himself, in the form prescribed by Section three hundred and ninety-nine.

The time for publication of notices, how computed

SEC. 440. The time for publication of legal notices shall be computed so as to exclude the first day of publication, and include the day on which the act or event, of which notice is given, is to happen, or which completes the full period required for publication.

Laws of other States and governments, how proved.

SEC. 441. Printed copies, in volumes, of statutes, code or other written law, enacted by any other State or Territory, or foreign Government, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the Courts and judicial tribunals of such State, Territory or Government, shall be admitted by the Courts and officers of this State, on all occasions, as presumptive evidence of such laws. The unwritten or common law of any other State or Territory, or foreign Government, may be proved as facts by parol evidence; and the books of reports of cases adjudged in their Courts may also be admitted as presumptive evidence of such law.

TITLE 13.—ACTIONS IN PARTICULAR CASES.

CHAPTER 1. Actions against Foreign Corporations.
2. Actions in Place of *Scire Facias, Quo Warranto*, and of Informations in the Nature of *Quo Warranto*.

CHAPTER 1.—*Actions Against Foreign Corporations.*

SEC. 442. Where and by whom action brought.

SEC. 442. An action against a corporation created by or under the laws of any other State, Government, or country, may be brought in the Circuit Court—

Where and by whom action brought.

1. By any resident of this State, for any cause of action;

2. By a plaintiff not a resident of this State, when the cause of action shall have arisen, or the subject of the action shall be situated, within this State.

CHAPTER 2.—*Actions in Place of Scire Facias, Quo Warranto, and of Informations in the Nature of Quo Warranto.*

SEC.
443. *Scire facias* and *quo warranto* abolished, and this Chapter substituted.
444. Action may be brought, by direction of the Legislature, by the Attorney General, to vacate a charter.
445. Action to annul a corporation, when and how brought by the Attorney General, by leave of the Supreme Court.
446. Leave to sue, how obtained.
447. Action upon information or complaint of course.
448. Action, when and how brought to vacate letters patent.
449. Relator, when to be joined as plaintiff.
450. Complaint and arrest of defendant in action for usurping an office.
451. Judgment in such actions.
452. Assumption of office, &c., by relator, when judgment is in his favor.
453. Proceedings against a defendant, on his refusal to deliver books or papers.
454. Damages, how recovered.
455. One action against several persons claiming office and franchise.
456. Penalty for usurping office or franchise, how awarded.
457. Judgment of forfeiture against a corporation.
458. Costs against a corporation, or persons claiming to be such, how collected.
459. Restraining corporation, and appointment of receiver.
460. Copy of judgment roll against corporation, where to be filed.
461. Entry of judgment relating to letters patent.
462. Action for forfeiture of property to the State.

SEC. 443. The writ of *scire facias*, the writ of *quo warranto*, and proceedings by information in the nature of *quo warranto*, are abolished; and the remedies heretofore obtainable in those forms may be obtained by civil actions under the provisions of this Chapter. But any proceeding heretofore commenced, or judgment rendered, or right acquired, shall not be affected by such abolition.

Scire facias and *quo warranto* abolished and this Chapter substituted.

SEC. 444. An action may be brought by the Attorney General, in the name of the State, whenever the Legislature shall so direct, against a corporation, for the purpose of vacating or annulling the Act of incorporation, or an Act renewing its corporate existence, on the ground that such Act or renewal was procured upon some fraudulent suggestion or concealment of a material fact, by the persons incorporated, or by some of them, or with their knowledge and consent.

Action may be brought by Attorney General to vacate a charter, by direction of the Legislature.

Action to annul a corporation, when and how may be brought by Attorney General, by leave of Supreme Court.

SEC. 445. An action may be brought by the Attorney General, in the name of the State, on leave granted by the Supreme Court or a Justice thereof, or a Circuit Judge, for the purpose of vacating the charter or annulling the existence of a corporation, other than municipal, whenever such corporation shall:—

1. Offend against any of the provisions of this Code of Procedure, or the Acts creating, altering, or renewing such corporation; or,

2. Violate the provisions of any law by which such corporation shall have forfeited its charter by abuse of its powers; or,

3. Whenever it shall have forfeited its priviliges or franchises by failure to exercise its powers; or,

4. Whenever it shall have done or omitted any act which amounts to a surrender of its corporate rights, privileges and franchises; or,

5. Whenever it shall exercise a franchise or privilege not conferred upon it by law.

And it shall be the duty of the Attorney General, whenever he shall have reason to believe that any of these acts or omissions can be established by proof, to apply for leave, and, upon leave granted, to bring the action, in every case of public interest, and also in every other case in which satisfactory security shall be given to indemnify the State against the costs and expenses to be incurred thereby.

Leave, how obtained.

SEC. 446 Leave to bring the action may be granted upon the application of the Attorney General; and the Court or Judge may, at discretion, direct notice of such application to be given to the corporation or to its officers, previous to granting such leave, and may hear the corporation in opposition thereto.

Action upon information or complaint.

SEC 447. An action may be brought by the Attorney General in the name of the State, upon his own information, or upon the complaint of any private party, or by a private party interested, on leave granted by a Circuit Judge, against the parties offending, in the following cases:—

1. When any person shall usurp, intrude into, or unlawfully hold or exercise any public office, civil or military, or any franchise within this State, or any office in a corporation created by the authority of this State; or,

2. When any public officer, civil or military, shall have done or suffered an act which, by the provisions of law, shall make a forfeiture of his office; or,

3. When any association or number of persons shall act within this State as a corporation, without being duly incorporated.

Action, when and how to be brought to vacate letters patent.

SEC. 448 An action may be brought by the Attorney General, in the name of the State, for the purpose of vacating or annulling letters patent granted by the people of this State, in the following cases:—

1. When he shall have reason to believe that such letters patent were obtained by means of some fraudulent suggestion or concealment of a

material fact, made by the person to whom the same were issued or made, or with his consent or knowledge; or,

2. When he shall have reason to believe that such letters patent were issued through mistake, or in ignorance of a material fact; or,

3. When he shall have reason to believe that the patentee, or those claiming under him, have done or omitted an act, in violation of the terms and conditions on which the letters patent were granted, or have, by any other means, forfeited the interest acquired under the same.

Relator, when to be joined as plaintiff.

SEC. 449. When an action shall be brought by the Attorney General, by virtue of this Chapter, on the complaint of any private party, or by a person having an interest in the question, the name of such person shall be joined with the State as plaintiff; and in every such case the Attorney General or Circuit Judge, as the case may be, may require, as a condition precedent to bringing such action, that satisfactory security shall be given to indemnify the State against the costs and expenses to be incurred thereby; and in every case brought by the Attorney General where such security is given, the measure of compensation to be paid by such person or persons to the Attorney General shall be left to the agreement, express or implied, of the parties.

Complaint and arrest of defendant in an action for usurping an office.

SEC. 450. When such an action shall be brought against a person for usurping an office, the Attorney General, or private party bringing the same, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightfully entitled to the office, with a statement of his right thereto; and in such case, upon proof by affidavit that the defendant has received fees or emoluments belonging to the office, and by means of his usurpation thereof, an order may be granted by a Judge of the Circuit or Justice of the Supreme Court for the arrest of such defendant, and holding him to bail; and thereupon he shall be arrested and held to bail, in the manner, and with the same effect, and subject to the same rights and liabilities as in other civil actions where the defendant is subject to arrest.

Judgment in such actions.

SEC. 451. In every such case, judgment shall be rendered upon the right of the defendant, and also upon the right of the party so alleged to be entitled, or only upon the right of the defendant, as justice shall require.

Relator entitled to enter on duties of office if judgment be in his favor.

SEC. 452. If the judgment be rendered upon the right of the person so alleged to be entitled, and the same be in favor of such person, he shall be entitled, after taking the oath of office, and executing such official bond as may be required by law, to take upon himself the execution of the office; and it shall be his duty, immediately thereafter, to demand of the defendant in the action all the books and papers in his custody, or within his power, belonging to the office from which he shall have been excluded.

Proceedings against defendant, or refusal to deliver books or papers.

SEC. 453. If the defendant shall refuse or neglect to deliver over such books or papers, pursuant to the demand, he shall be guilty of a misdemeanor, and the following proceedings shall be had, to compel delivery of such books and papers:

1. Whenever any person shall be removed from office, or the term for which he shall have been elected or appointed shall expire, he shall, on demand, deliver over to his successor all the books and papers in his custody as such officer, or in any way appertaining to his office. Every person violating this provision shall be deemed guilty of a misdemeanor;

2. If any person shall refuse or neglect to deliver over to his successor any books or papers, as required in the preceding Section, such successor may make complaint thereof to any Judge of the Circuit Court, or Justice of the Supreme Court, where the person so refusing shall reside; and if such officer be satisfied by the oath of the complainant, and such other testimony as shall be offered, that any such books or papers are withheld, he shall grant an order directing the person so refusing to show cause before him, within some short, reasonable time, why he should not be compelled to deliver the same;

3. At the time so appointed, or at any other time to which the matter may be adjourned, upon due proof being made of the service of the said order, such officer shall proceed to inquire into the circumstances. If the person charged with withholding such books or papers shall make affidavit before such officer that he has truly delivered over to his successor all such books and papers in his custody, or appertaining to his office, within his knowledge, all further proceedings before such officer shall cease, and the person complained against shall be discharged;

4. If the person complained against shall not make such oath, and it shall appear that any such books or papers are withheld, the officer before whom such proceeding shall be had shall, by warrant, commit the person so withholding to the jail of the County, there to remain until he shall deliver such books and papers, or be otherwise discharged according to law;

5. In the case stated in the last Section, if required by the complainant, such officer shall also issue his warrant, directed to any Sheriff or Constable, commanding them in the day time to search such places as shall be designated in such warrant for such books and papers as belonged to the officer so removed, or whose term of office expired, in his official capacity, and which appertained to such office, and seize and bring them before the officer issuing the warrant;

6. Upon any books and papers being brought before such officer, by virtue of such warrant, he shall inquire and examine whether the same appertained to the office from which the person so refusing to deliver was removed, or of which the term expired, and he shall cause the same to be delivered to the complainant;

7. If any person appointed or elected to any office shall die, or his office shall in any way become vacant, and any books or papers belonging or appertaining to such office shall come to the hands of any person, the successor to such office may, in like manner as hereinbefore pre-

scribed, demand such books or papers from the person having the same in his possession; and on the same being withheld, an order may be obtained, and the person charged may, in like manner, make oath of the delivery of all such books and papers that ever came to his possession; and in case of omission to make such oath, and to deliver up the books and papers so demanded, such person may be committed to jail, and a search warrant may be issued, and the property seized by virtue thereof may be delivered to the complainant, as hereinbefore prescribed.

Damages, how recovered.

SEC. 454. If judgment be rendered, upon the right of the person so alleged to be entitled, in favor of such person, he may recover, by action, the damages which he shall have sustaiaed by reason of the usurpation by the defendant of the office from which such defendant has been excluded.

One action against several persons claiming office or franchise.

SEC. 455. Where several persons claim to be entitled to the same office or franchise, one action may be brought against all such persons, in order to try their respective rights to such office or franchise.

Penalty for usurping office or franchise, how to be awarded.

SEC. 456. When a defendant, whether a natural person or a corporation, against whom such action shall have been brought, shall be adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise, or privilege, judgment shall be rendered that such defendant be excluded from such office, franchise or privilege, and also that the plaintiff recover costs against such defendant. The Court may also, in its discretion, fine such defendant a sum not exceeding two thousand dollars, which fine, when collected, shall be paid into the Treasury of the State.

Judgment of forfeiture against a corporation.

SEC. 457. If it shall be adjudged that a corporation against which an action shall have been brought pursuant to this Chapter, has, by neglect, abuse or surrender, forfeited its corporate rights, privileges and franchises, judgment shall be rendered that the corporation be excluded from such corporate rights, privileges and franchises, and that the corporation be dissolved.

Costs against a corporation or persons claiming to be such. How to be collected.

SEC. 458. If judgment be rendered in such action against a corporation, or against persons claiming to be a corporation, the Court may cause the costs therein to be collected by execution against the persons claiming to be a corporation, or by attachment or process against the directors or other officers of such corporation.

Restraining a corporation and appointment of receiver.

SEC. 459. When such judgment shall be rendered against a corporation, the Court shall have power to restrain the corporation, to appoint a receiver of its property, and to take an account, and make distribution thereof among its creditors; and it shall be the duty of the Attorney General, immediately after the rendition of such judgment, to institute proceedings for that purpose.

Copy of judgment-roll against corpo-

SEC. 460. Upon the rendition of such judgment against a corporation, or for the vacating or annulling of letters patent, it shall be the duty of

ration, where to be filed.

the Attorney General to cause a copy of the judgment roll to be forthwith filed in the office of the Secretary of State.

Entry of judgment relating to letters patent.

SEC. 461. Such Secretary shall thereupon, if the record relates to letters patent, make an entry in the records of the office of the Secretary of State, of the substance and effect of such judgment, and of the time when the record thereof was docketed; and the real property granted by such letters patent may thereafter be disposed of in the same manner as if such letters patent had never been issued.

Actions for forfeiture of property to the State.

SEC. 462. Whenever, by the provisions of law, any property, real or personal, shall be forfeited to the State, or to any officer for their use, an action for the recovery of such property, alleging the grounds of the forfeiture, may be brought by the proper officer in the Circuit Court.

TITLE 14.—PROVISIONS RELATING TO EXISTING SUITS.

SEC.
463. Writ of error in all cases abolished. Appeal substituted.
464. Execution, when issuable on a judgment docketed before July 1st, 1870.
465. Application of this Code of Procedure to actions pending.

Writs of error in all cases abolished. Appeal substituted.

SEC. 463. No writ of error shall be hereafter issued in any case whatever. Wherever a right now exists to have a review of a judgment rendered, or order or decree made, before the first day of January, 1871, such review can only be had upon an appeal taken in the manner provided by this Code; but all appeals or writs of error heretofore taken from such judgments, orders or decrees, which are still pending in an Appellate Court, and not dismissed, shall be valid and effectual. But this Section shall not extend the right of review to any case or question to which it does not now extend, nor the time for appealing.

Execution, when issuable on a judgment docketed July, 1870.

SEC. 464. An execution may be issued, without leave of the Court, upon a judgment docketed before the first day of July, 1870, or now or hereafter to be rendered in an action pending on that day, at any time within five years after the rendering of the judgment.

Application of this Code to actions pending.

SEC. 465. The provisions of this Code of Procedure apply to future proceedings in actions or suits heretofore commenced and now pending, as follows:

1. If there have been no pleading therein, to the pleadings and all subsequent proceedings;

2. When there is an issue of law or of fact, or any other question of fact to be tried, to the trial and all subsequent proceedings.

TITLE 15.—GENERAL PROVISIONS.

SEC.
466. Definition of real property.
467. Definition of personal property.
468. Definition of property.
469. Definition of Clerk.
470. Rule of construction.
471. Inconsistent statutory provisions repealed.
472. Inconsistent rules and practice abrogated.
473. Judges to meet and make general rules.
474. Justices of Supreme Court may make rules.
475. Proceedings by *mandamus* and prohibition not affected, &c.

SEC. 466. The words "real property," and "real estate," as used in this Code of Procedure, are co-extensive with lands, tenements, and hereditaments.

Definition of "real property."

SEC. 467. The words "personal property," as used in this Code of Procedure, include money, goods, chattels, things in action, and evidences of debt.

Definition of "personal property."

SEC. 468. The word "property," as used in this Code of Procedure, includes property, real and personal.

Definition of "property."

SEC. 469. The word "Clerk," as used in this Code of Procedure, signifies the Clerk of the Court where the action is pending, and, in the Supreme Court, the Clerk of the County mentioned in the title of the complaint, or in another County to which the Court may have changed the place of trial, unless otherwise specified.

Definition of "Clerk."

SEC. 470. The rule of common law, that statutes in derogation of that law are to be strictly construed, has no application to this Code of Procedure.

Rule of construction.

SEC. 471. All statutory provisions inconsistent with this Code of Procedure are repealed; but this repeal shall not revive a statute or law which may have been repealed or abolished by the provisions hereby repealed. And all rights of action given or secured by existing laws may be prosecuted in the manner provided by this Code of Procedure. If a case shall arise in which an action for the enforcement or protection of a right, or the redress or prevention of a wrong, cannot be had under this Code of Procedure, the practice heretofore in use may be adopted so far as may be necessary to prevent a failure of justice.

All statutory provisions inconsistent with this Code repealed.

SEC. 472. The present rules and practice of the Courts in civil actions, inconsistent with this Code of Procedure, are abrogated; but, when consistent with this Code of Procedure, they shall continue in force, subject to the power of the respective Courts to relax, modify or alter the same.

All present rules and practices inconsistent with this Code abrogated.

SEC. 473. The Justices of the Supreme Court and the Judges of the Circuit Courts shall meet in general session on the first Tuesday in November, 1870, at the Capitol in Columbia, and in every two years thereafter. A majority of said Justices and Judges shall constitute a quorum. At such session they shall revise the general rules of the Circuit Court, make amendments thereto, and such further rules, not inconsistent with

The Justices and Judges to meet and make general rules.

this Code of Procedure, as may be necessary to carry it fully into effect.

Justices of the Supreme Court to make rules.

SEC. 474. The Justices of the Supreme Court shall, from time to time, make such rules for the orderly conduct of business in said Court, as they may deem proper, not inconsistent with this Code of Procedure.

Proceedings by *mandamus* and prohibition not affected, &c.

SEC. 475. Until the Legislature shall otherwise provide, the second Part of this Code of Procedure shall not affect proceedings by *mandamus* or prohibition.

TITLE VI.

OF PROCEEDINGS FOR THE RELIEF OF PERSONS ARRESTED IN CIVIL ACTIONS.

CHAPTER CXXIII. *Of Prison Bounds and the Discharge of the Prisoner.*

CXXIV. *Of the Assignment for the Benefit of Creditors.*

CHAPTER CXXIII.

OF PRISON BOUNDS AND THE DISCHARGE OF THE PRISONER.

SEC.

Prison Bounds

1. Who entitled to. Limits.
2. Security to be given by persons confined on mesne process.
3. Schedule to be rendered, &c., by prisoner in execution.
4. Forfeiture of privilege if schedule be not filed within forty days.
5. Forfeiture of privilege if prisoner refuses to make an assignment.
6. If bond be forfeited, debtor to be remanded, &c.
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Discharge of Prisoners as Insolvent Debtors.

9. Persons in arrest wishing to surrender property, to petition Courts, &c.
10. Creditors to be summoned by public notice, &c.
11. Court to examine as to discharge of prisoner. To tender oath, &c. Form of oath.
12. Petitioner to be allowed certain property, &c., and the rest to be assigned, &c. Homestead allowed head of family.
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17. Any prisoner may render schedule, &c.
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20. Kind of property to be assigned, &c.
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22. Penalty for false schedules.
23. Manner of summoning jury in cases of alleged fraud.
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26. Fees allowed Clerk for hearing application
27. Fees allowed Sheriff.
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29. Creditors allowed to examine applicants for discharge. Penalty for refusal to answer
30. Debtor to produce books, &c
31. Submission of issues to jury, &c.
32. No discharge to be granted until the delivery of property to assignee.
33. Clothing for poor prisoners.
34. Creditor authorized to discharge debtors.

Prison Bounds.

SECTION 1. That any prisoner on mesne or final process in any civil action, who shall be committed to the custody of the Sheriff of any County of this State, on complying with the requisitions contained in this Chapter, shall be entitled, in every day during his confinement, to be and remain unmolested in any part of the rules, bounds or limits of the prison where he shall be confined; which rules, bounds or limits shall be coterminous with the limits of the County.

Who entitled to.

Limits.

178s, V, 78, §§ 1,3; 1841, XI, 153, § 1.

SEC. 2. Any person committed on mesne process shall be entitled to the benefit of the said rules, limits or bounds, whenever he shall have given satisfactory security to the Sheriff of the County where he may

Security to be given by prisoner on

mesne process.
Ib., § 2.
Code of Procedure, 224.
Amended by Com'rs.

be confined as aforesaid, not to go or be without the said rules; and the Sheriff shall himself be liable as bail as he would be in cases wherein he should not require bail to justify after notice, as provided by Sections 215 and 216 of the Code of Procedure.

Schedule to be rendered, &c., by prisoner in execution.
1788, V, 78, 3. Miller's Compilation, 174. Harper, 2 4; 1 Hill, 118; 2 McM., 359; 2 Spears, 176, 6 6; 1 Rich., 38; 2 Rich, 95; 9 Rich, 65.

SEC. 3. Any prisoner in execution on any civil process shall be entitled to the benefits of this Chapter, provided he shall, within forty days from the date of his bond, render to the Clerk of the Court of the County where he shall be confined, a schedule, on oath or affirmation, (agreeably to the form of his religious persuasion,) of his whole estate, or of so much thereof as will pay and satisfy the sum due on the execution by force of which he shall be confined, and proceeds to procure his discharge either as an insolvent debtor or poor prisoner.

Forfeiture of privilege if schedule be not filed within forty days.
Ib., 79, § 7; 1840, XI, 172, § 2; 1841, XI, 75, § 2.
Amended by Com'rs
3 McC., 14, 9; 2 Rich., 32.

SEC. 4. If any prisoner in execution, having given security for the prison rules, shall fail to file his schedule within forty days, and proceed with his motion for his discharge, he shall forfeit the privilege of the rules, and may, by the order of his creditor, be remanded to confinement in the common jail, unless further time, upon cause shown, be granted him by the Court or by a Judge at Chambers.

Forfeiture of privilege if prisoner refuses to make an assignment.
1840, XI, 172, § 2.

SEC. 5. In case any prisoner in execution on final process shall neglect or refuse, for the space of ten days, to make an assignment of the estate and effects embraced in his schedule, according to the order of the Judge, Clerk, or Trial Justice, such prisoner shall no longer be entitled to the benefit of the prison rules, bounds, or limits, but shall be recommitted to close confinement by the Sheriff, and so kept until such prisoner shall duly make the assignment aforesaid, or pay the debt and costs for which he is imprisoned.

If bond be forfeited, debtor to be remanded, &c
1788, V, 80, 11. Amended by Com'rs. 1 McM., 10; 10 Rich., 70.

SEC. 6. If any person admitted to the benefit of the prison rules do forfeit his bond by going out of the County, the surety shall be liable for the debt and costs; and, in the meantime, the debtor shall be remanded to prison till the debt be paid, if the creditor require it.

Clerk of Court to hear applications for, &c.
1799, VII, 294, § 6; 1839, XI, 112, § 32 2 McC., 367; 3 McC., 438.

SEC. 7. The Clerk of the Circuit Court in each County of this State shall hear and determine all applications for the benefit of the provisions of Section 1 of this Chapter.

Trial Justice may act when Clerk cannot.
Ib., 30, § 21. 12 Rich., 550.

SEC. 8. In cases where the Clerk of the Court cannot hear and determine such application, either on account of interest, sickness or absence, but in no other cases whatever, any Trial Justice of the County may hear and determine any application for the benefit of the provisions of the first Section of this Chapter.

Discharge of Prisoners as Insolvent Debtors.

Persons in arrest wishing to surrender property,

SEC. 9. If any person, arrested in any civil action as provided by Chapter 1, Title 7, of the Code of Procedure, shall be minded to make surrender of all his effects towards satisfaction of the debts wherewith he stands charged, it shall and may be lawful for such person to exhibit

a petition to the Court of Common Pleas of the County wherein he is confined, certifying the causes of his imprisonment, together with an account of his real and personal estate, with the dates of the securities wherein any part of it consists, and the deeds, notes or vouchers relating thereto, and the names of the witnesses to the same, as far as his knowledge extends therein.

to petition Court, &c. 1759, IV, 86, § 1; 1788, V, 7; 6 Con, Art 1, § 20. Amended by Com'rs. 1 Bay, 147; 3 Strob., 362; 11 Rich., 520.

SEC. 10. Upon such petition, the Court may, and is hereby, required, by order or rule, to cause the petitioner to be brought before it, and the creditors at whose suit such person shall stand charged, as well as all other creditors to whom he shall be indebted, to be summoned by public notice, to be given three months at least in some newspaper of the County wherein the debtor is confined, and if there be no newspaper published in such County, then in some newspaper of general circulation therein, personally, or by their attorney, to appear at the said Court, at a day for that purpose appointed, at or after the expiration of the said three months.

Creditors to be summoned by public notice, &c. 1759, IV, 87, § 1. Amended by Com'rs. 1 N. & McC., 480; 1 McC., 339; 1 Rich., 92; 1 Strob., 148.

SEC. 11. Upon the day of such appearance, if any of the creditors so summoned shall neglect or refuse to appear, upon affidavit made of the service of such rule or order, in manner aforesaid, the Court shall, in a summary way, examine into the matter of the said petition, and hear what shall be alleged for or against the discharge of the said petitioner; and, upon such examination, the Court, or the Judge thereof, may, and is hereby, required to administer or tender to the petitioner an oath in the following words:

Court to examine as to discharge of prisoner.

To tender oath, &c.

"I, (A B,) do solemnly swear, in the presence of Almighty God, that I have been a prisoner within the prison bounds of this County, from the time of my being arrested, (or surrendered,) at the suit of ——— ———, without my consent or procurement, and without any fraud or collusion whatsoever; and that the account by me delivered into this honorable Court, with my petition to this Court, doth contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever, without exception, which I, or any person in trust for me, have, or at the time of my said petition had, or am, or was, in any respect, entitled unto, in possession, remainder or reversion; and that I have not at any time since my being sued, arrested or imprisoned, or before, directly or indirectly, sold, leased, assigned, or otherwise disposed of, or made over in trust for myself or otherwise, other than as mentioned in such account, any part of my lands, estate, goods, stock, money, debts, or other real or personal estate, whereby to have or expect any benefit or profit to myself, or to defraud any of my creditors to whom I am indebted; and that I will, to the utmost of my power, endeavor to collect all and singular the title deeds to my lands, together with the remainder of my goods and effects contained in my said account, and the vouchers relating to or concerning the same, wheresoever or in whosesoever hands they may be within this State, and will surrender the same to my assignee or assignees as soon as possible, after my discharge; and that I

Form of oath. Ib. 1 Strob., 152; 1 McM., 286; Miller's Compilation, 17[illegible].

have not expended more than fifty-three (53) cents per diem, out of my estate for my subsistence, since I have been a prisoner as aforesaid. So help me God."

Petitioner to be allowed certain property, &c., and the rest to be assigned, &c.

Ib.
2 Strob., 205; 1 McM., 373; 1 Rich., 62; 11 Rich., 358; 12 Rich. 112; 13 Rich., 35.

SEC. 12. In case the prisoner shall take the said oath, and upon examination the Court shall be satisfied with the truth thereof, the said Court is empowered, first to give and deliver up to the said petitioner so much of his necessary bedding, wearing apparel, working tools, and arms for muster, as it shall judge most suitable to his former station and condition in life; and immediately thereupon the Court shall order the lands, goods and effects contained in the said accounts, or so much of them as may be sufficient to satisfy the debts wherewith such petitioner shall be charged, and the fees of the keeper of the jail where he shall be in custody, together with the costs of suit which shall be incurred on the suit or prosecution commenced against him, and all other costs and fees which shall arise or become due upon prosecuting and obtaining his discharge, by a short indorsement on the back of his petition, signed by the petitioner, to be assigned to the creditor or creditors at whose suit such petitioner stands charged, or to such other person or persons as the said Court shall direct: *Provided, however,* That if the petitioner be the head of a family there shall be reserved to him out of his real and personal property a homestead and such articles as are exempt from attachment, levy and sale under the provisions of Chapter XCVI of this Act.

Homestead allowed head of family.

Con., Art. II, § 32.

On making assignment, &c., prisoner to be discharged.

1759, IV, 88, § 1. 10 Rich., 87; 12 Rich., 358.

SEC. 13. The petitioner, upon executing such assignment, (and when he shall have delivered up into the hands of the assignee or assignees, all and singular his title-deeds, vouchers and effects contained in his said account, so far as in his power so to do,) shall be forthwith discharged, by order of Court, from such suit or suits, and shall also thenceforth be acquitted and discharged of, from and against all such other of his creditors as shall have received their dividend as aforesaid, for all debts, contracts and demands whatsoever: *Provided,* That such debtor shall also, within six months after his discharge, deliver up to the said assignee or assignees all such goods and effects contained in the said schedule, as shall be afterwards in his power to deliver.

Prisoner to be remanded for refusal to assign.

Ib.

SEC. 14. In case any such debtor shall neglect or refuse so to do within the time aforesaid, it shall and may be lawful for the said Judge, upon application, upon oath, of the assignee or assignees, again to remand the said debtor to prison, there to remain, unless good cause shall be shown by him or them to the contrary, until he shall fully comply with the terms of Section 12 of this Chapter.

Effect of discharge.

Ib.

SEC. 15. Nothing herein contained shall extend to discharge such debtor from the debts, claims or demands of such of the petitioner's creditors as shall not have received, or shall refuse, their dividend of the said petitioner's estate, goods and effects.

SEC. 16. After the discharge of the debtor as an insolvent, no creditor shall be allowed to sue him, for twelve months, for any antecedent debt; and, during said period, he shall be free from all such suits.

Not to be sued for 12 months &c.
Ib., 2

Discharge as Poor Prisoners.

SEC. 17. Any prisoner for debt shall have liberty to render, at any time during his confinement on such cause, a schedule, on oath or affirmation, (agreeably to the form of his religious persuasion,) of his whole estate, or of so much thereof as will pay and satisfy the sum really due on the action on which he may be confined.

Any prisoner may render schedule &c.
1788, V, 78, 4; 1833, VI, 321, 1. 2 Hill, 433.

SEC. 18. The Clerk of the Court of the County where he shall be confined, within ten days after the receipt of the schedule from the prisoner, shall give public notice that the prisoner will be liberated and the property assigned, unless satisfactory cause is shown to the contrary before the Judge of the Court where the process originates; and if no satisfactory cause shall be shown to the contrary, the Judge before whom the prisoner shall be brought shall order an assignment of the prisoner's estate and effects, mentioned in the schedule, to be made to the plaintiff, subject, nevertheless, to all prior encumbrances; whereupon the creditor may take possession, and, if necessary, sue in his or her own name for the recovery thereof, and the prisoner shall be discharged from confinement.

Clerk to give notice of liberation of prisoner, &c.
Ib.
2 Bail., 197.

SEC. 19. If the plaintiff shall show cause for disbelieving the prisoner's oath or affirmation, or shall desire further time for information, the Judge shall have power to remand the prisoner, and appoint another day for his appearance; and if, on the second day, the plaintiff shall not appear, or shall be unable to prove that the prisoner's oath or affirmation ought to be disbelieved, the Judge, after assignment made in manner above directed, shall discharge the prisoner.

Proceedings to be had before discharge, &c
Ib.

SEC. 20. The property mentioned in said schedule must be visible property, if the prisoner is possessed of any such, but if he is not, *choses in action* must be mentioned, with the names and places of abode of the witness thereto; and if the property mentioned in the schedule should prove deficient, any other property that the prisoner may have, or hereafter acquire, shall be liable for the demand for which he is confined.

Kind of property to be assigned, &c.
1788, V, 79, § 5. 1 McM., 373.

SEC. 21. No prisoner shall be discharged without fully satisfying the action or execution on which he is confined, if, since his confinement and before he gave security, he has been seen without the prison walls, or if, since giving security, he has been seen without the prison rules, without being legally authorized so to be, or shall have spent more than fifty-three cents a day, or shall have, within three months before his confinement, or at any time since, paid or assigned his estate, or any part thereof, to one creditor in preference to another, or fraudulently sold, conveyed or assigned his estate, to defraud his creditors; but wherever a prisoner shall be accused, by the plaintiff or his agent, of fraud, or his having given an undue preference to one creditor, to the prejudice of the plain-

What causes shall prevent a discharge.
Ib., 7
2 McC., 30; 4 McC., 81; Harper, 105-128; 1 Hill, 118-291; 2 Hill, 418; 1 Rich., 389; Rice, 352; 2 Bail., 131; 2 Spears, 332; 2 Rich., 288; 9 Rich., 43; 0 Rich., 87, 354; 11 Rich., 358; 12 Rich., 259, 387; 14 Rich., 108.

Judge to cause jury to be empannelled in case of alleged fraud, &c.

tiff, or of having made a false return, or of having gone without the prison walls, or prison rules, as the case may be, it shall be lawful for the Judge before whom the prisoner is brought to direct a jury to be empannelled and sworn to determine the fact.

General Provisions.

Penalty for false schedules.

Ib., 1 10; '75, IV, 23, 15. 1 Hill, 432.

SEC. 22. Any person who shall deliver in a false schedule of his effects shall suffer the penalties of willful perjury, shall be liable to be arrested again for the action or execution on which he was discharged, and shall forever be disabled to take any benefit from this Chapter.

Manner of summoning jury in cases of alleged fraud.

1833, VI, 191, 1. 2 McM., 52; Cleves, 27; 3 Hill, 63

SEC. 23. Whenever a prisoner confined on mesne or final process, applying for the benefit of the provisions of Sections 1, 2, 3, 17, 18 and 19 of this Chapter, shall be accused by the plaintiff, or his agent, of fraud, or of his having given an undue preference to one creditor to the prejudice of the plaintiff or of having made a false return, or having gone without the prison walls, or prison rules, as the case may be, it shall be lawful for the Judge, Clerk of the Circuit Court, or Trial Justice, who shall hear the prisoner's application, to place the names of twenty-four neighboring freeholders in a box, and from them draw eighteen, and to direct the Sheriff of the County to summon the said freeholders whose names shall be thus drawn, to attend at the place where the prisoner is confined, and at such time as the said Judge, Clerk or Trial Justice shall appoint; and from them shall be drawn twelve in the same manner, who shall be empannelled to try the facts required by this Chapter.

Filling vacancies in panel.

Ib.

SEC. 24. If from the eighteen freeholders so summoned, twelve cannot, from any cause, be empannelled, then the said Judge, Clerk or Trial Justice, is authorized to complete that number from the other freeholders originally selected.

Liability for non-attendance of jurors.

Ib. 192, § 2.

SEC. 25. The freeholders so summoned shall be liable to the same objection, to be made by either party in the case, which may be made to jurors in the Court of Common Pleas, and shall be liable to the same fine for non-attendance without sufficient cause to which jurors are for non-attendance at the Courts; the said fines to be imposed by the Court of Common Pleas of the County; and it shall be the duty of the Judge, Clerk, or Trial Justice, to return the names of the freeholders who shall so neglect to attend, into the office of the Clerk of the said Court, who is hereby commanded to proceed against the said defaulters as against non-attending jurors.

Fees allowed Clerk for hearing application.

Ib., 3. 1 Rich., 191.

SEC. 26. The Clerk or Trial Justice who may hear and determine the application of a prisoner for the benefit of the provisions of Section 1 of this Chapter, shall, if the same be unlitigated, be entitled to receive the sum of two dollars out of the property that may be assigned by the prisoner, as a compensation for his services; and, whenever the same is litigated, the said Trial Justice shall be entitled to receive the sum of

four dollars as a compensation for his services, out of the property of the prisoner, if the final decision be against him; but if it be in his favor, then the said sum shall be paid by the plaintiff.

Fees allowed Sheriff.
Ib.

SEC. 27. The Sheriff shall receive the sum of five dollars as a compensation for summoning the said freeholders, to be paid out of the property of the prisoner, if his application be refused, and, if granted, by the plaintiff.

Proceedings in cases of appeal; Supreme Court to hear appeal.
Ib., § 4.
1 Hill, 432; 2 Hill, 501; Cheves, 241; Dudley, 368; 2 Spears, 65, 94; 1 Rich, 483; 9 Rich., 46; 10 Rich., 9, 87; 11 Rich., 352; Miller's Compilation, p. 175.

SEC. 28. If the verdict of the jury aforesaid be in favor of the prisoner, and the plaintiff should appeal, the prisoner shall be entitled to be discharged from confinement, on his giving bond and sufficient sureties to the plaintiff, to be forthcoming, and to abide by the decision of the Supreme Court; and if the said appeal shall be determined against the prisoner, and he be not surrendered, (which the surety is hereby authorized to do,) before the first day of the Circuit Court next succeeding the determination of such appeal, then the Clerk of the Court shall, on the application of the plaintiff or his agent, forthwith issue an order on the said bond against the prisoner and his sureties, as in cases of estreated recognizances; but in case the said prisoner should appear, or be surrendered as aforesaid, then the said Clerk or Trial Justice shall forthwith proceed to empannel a jury and try the case, as provided for in the preceding Sections, with the same liabilities, rights and privileges as aforesaid.

Creditors allowed to examine applicant for discharge; penalty for refusal to answer.
1836, VI, 556, § 1.
2 McM., 52; 1 Rich, 62.

SEC. 29. It shall and may be lawful for the creditor or creditors of any person applying for the prison bounds, or for any of the provisions of this Chapter for the relief of insolvent debtors or imprisoned debtors, either in person or by attorney, to examine and cross examine such applicant, on oath, in the presence of the Judge, Clerk of Court or Trial Justice, before whom he shall move for his discharge from imprisonment, touching the truth of his schedule, and touching the nature and extent of his property, rights and credits, liable to be assigned for the benefit of his creditors. And the refusal of any such applicant to answer, fully and directly, all or any proper questions put to him in the course of such examination, shall prevent his discharge, if otherwise entitled thereto, until he shall have fully answered the same.

Debtor to produce books, &c.
Ib., § 2.

SEC. 30. If, on such examination, it should appear that he has kept books, in relation to his trade, profession or occupation, he shall be required to produce the same, if in his possession or power, and on failure to do so, he shall be deprived of his discharge until he shall produce the same.

Submission of issues to jury, &c.
1833, VI, 493, § 5.

SEC. 31. Nothing contained in Sections 23, 24 and 25 of this Chapter, shall be construed to deprive a Judge, sitting in open Court, of the power to submit to the jury already impannelled, all issues arising under the twenty-first Section of this Chapter, in the same manner as is now practiced; but in all cases where the plaintiff shall appeal from the ver-

dict of the jury, the defendant shall be entitled to his enlargement, pending the appeal, on the terms prescribed in the twenty-eighth Section of this Chapter.

No discharge to be granted until delivery of property, &c.

Ib., § 6.

SEC. 32. In all cases where a prisoner applies for the benefit of the prison bounds, or for his discharge as a poor prisoner, the Judge or Clerk of the Court, before whom the application shall be made, shall not discharge him from his confinement until the property contained in his schedule is produced and delivered to the assignee of such prisoner, if it be, or has been, within the power of the prisoner to deliver the same since the time of his arrest.

Clothing for poor prisoners.

1842, XI, 226; 1869, XIV, 274, § 2. Amended by Comm'rs.

SEC. 33. Poor prisoners shall be furnished by the County Commissioners, in their respective Counties, with necessary clothing, the cost thereof to be defrayed out of the fines and forfeitures collected in their Counties.

Creditor authorized to discharge debtor, &c.

1815, VI, 1, § 1. Miller's Compilation, p. 216. Amended by Comm'rs.

SEC. 34. Every creditor in this State who may have taken, or shall take, in execution, the body of any debtor, by order of a competent Court, shall be, and he is hereby, authorized, with the consent of such debtor, to discharge him from his arrest, and suffer him to go at large, without disparaging or weakening the force of his judgment: *Provided, nevertheless,* That the granting the said indulgence shall in no wise incapacitate or prevent the plaintiff from afterwards issuing executions against his property, on the said judgments.

CHAPTER CXXIV.

OF THE ASSIGNMENT FOR THE BENEFIT OF CREDITORS.

SEC.
1. What property passes by assignment of insolvent debtor.
2. Assignees to be trustees for creditors, &c.
3. Duties of trustees. Division of debtor's estate.
4. Dividend to be made every six months, &c.
5. Order in which debts are to be paid.
6. Judgment and mortgage debts, &c.
7. Insolvent debtors not to plead Statute of Limitations.
8. Proceedings to be taken by creditors not willing to accept dividend, &c.
9. Debtors concealing debts due to them, persons owing the same to pay to the assignees.
10. Debtor obliged to assist trustee, &c.
11. Creditors liable to pay the costs of arrest and imprisonment.
12. Fifty per cent. allowed to persons discovering concealed estates.

What property passes by assignment of insolvent debtor.

1759, IV, 88, § 1. Amended by Comm'rs. 1 McM., 73; 1 Rich., 335; 3 McC., 52-247; 4 McC., 510.

SECTION 1. By virtue of the assignment of a petitioner for relief as an insolvent debtor, as provided in Chapter CXXIII of this Act, all property, real or personal, in possession or in action, then belonging to the petitioner, whether included in his schedule or not, shall pass to his assignee, and may be taken possession of or sued for by him, naming himself as assignee. And, to such action, no release of the insolvent, or of any one claiming under him, shall be or constitute any bar.

Assignees to be trustees for creditors, &c.
Ib., 89, § 3.

SEC. 2. The person to whom the said assignment is made, shall be trustee for all and singular the creditors of the said petitioner, who are willing to come and receive their dividends, and who shall, within twelve months after his discharge, deliver unto the said trustee, an exact account, upon oath, of the several debts and demands to them owing.

Duties of trustees.
Ib.

SEC. 3. The said trustee, after having sold the said petitioner's lands and effects and collected the several debts due to him, (which they are hereby required to do with the utmost expedition,) shall thereout first satisfy and discharge the costs of suit and other costs and fees, provided for by Section 12 of Chapter CXXIII of this Act, and shall next deduct and retain, in his own hands, a reasonable recompense for his trouble in executing the said trust, to be fixed and allowed by the Court by whom such person was appointed trustee. And such trustee shall, within one month thereafter, divide the remaining balance of the said estate among such of the creditors who deliver in the amount of their demands within the time aforesaid, according and in proportion to their several and respective debts, first giving three months public notice of the time and place when and where such division is to be made.

Division of debtor's estate.

Dividend to be made every six months, &c.
Ib.

SEC. 4. In case it shall happen that the whole of the petitioner's estate shall not have come to the hands of the said trustee by the time prescribed for making such division, then such trustee shall, at the end of every six months thereafter, make a dividend of so much of the same as shall come to his hands, among such creditors as aforesaid, until the whole shall be received.

Order in which debts are to be paid.
Ib., § 4.
Amended by Comm'rs.

SEC. 5. Judgments and executions shall be paid in their order, out of the proceeds of the property on which they constitute a lien; and mortgages, out of the proceeds of the mortgaged property; and such and so much of the judgments, executions and mortgages as remain unpaid, and all other debts, out of the property free from liens, rateably and in proportion.

Judgment and mortgage debt, &c.
Ib., § 4, 5
Amended by Comm'rs.
1 McC., 377.

SEC. 6. No payment shall be made to any judgment or mortgage creditors without an affidavit of the sum really and *bona fide* due, made and rendered to the assignee.

Insolvent debtors not to plead statute of limitations
Ib., 9, § 10
1 Bay., 434; 1 N. & McC., 109; Dudley, 244; 1 Spears, 244; 7 Rich., 43.

SEC. 7. No person who has taken the benefit of the provisions of Sections 9 to 16, inclusive, of Chapter CXXIII of this Act, shall ever afterwards plead the Statute of Limitations of this State, in bar to any action that may afterwards be brought against him by any person or persons that were his creditors, for any demand or cause of action that existed at the time of exhibiting the petition for the discharge of the said person when in custody. And in case the Statute of Limitations shall be pleaded by any such person or persons, the said plea shall be set aside by the Court where such action shall be brought, upon motion made by the plaintiff or his attorney in such action, upon producing the record of his discharge as an insolvent.

Proceedings to be taken by creditors not willing to accept dividend &c.

Ib., 92, § 11.

SEC. 8. Whenever any person in custody shall once petition for his discharge, the creditor or creditors of such persons, by note, book account or contract, not willing to accept a dividend of such petitioner's estate, in order to perpetuate the testimony of his, her or their demand, may be at liberty to prove the quantum of the said demand or balance due from, or against, such petitioner at the Court when such petitioner shall apply for his discharge; and a minute or certificate thereof shall be entered with the Clerk of the said Court of the sum or balance due to such creditor or creditors; which minute or certificate shall thenceforth be good evidence of the sum so certified to be due from the said petitioner, and shall thenceforth be deemed as an account liquidated and stated, and recoverable as such against the said petitioner, his executors or administrators, without further evidence than the said certificate of the said Clerk of the Court; and against which debt or demand, or any action for the same, the Statute of Limitations shall not be a bar, nor pleadable.

If debtors conceal debts due to them, persons owing the same to pay to the assignees

Ib., 93, § 17.

SEC. 9. In case any insolvent debtor, at the time when he shall render an account of his, her or their estate, shall conceal any debts that may be owing to him, it shall not be lawful for the person or persons owing such debts to pay the same, or any part thereof, to or for the use of such insolvent debtor; but such person or persons shall be, and are hereby, made liable to pay such debts, and every part thereof, to the assignee of such debtor, for the use of his creditors. And such assignee may sue for the same in his own name; in which suit, no release of such insolvent debtor, his executors or administrators, or any trustee for him subsequent to the rendering such account, shall be any bar.

Debtor obliged to assist trustee, &c.

Ib., 94, § 19.

SEC. 10. Every insolvent debtor, who shall make an assignment of his estate, in trust for the use of his creditors, shall be obliged to assist the trustee at all times when thereunto required, in the recovery of the debts assigned, and in every other matter which shall be thought necessary for the benefit and advantage of the creditors; and, in consideration thereof, such trustee shall have power, and he is authorized, in all cases where he shall be of opinion such insolvent debtor has acted justly and honestly, to make him such allowance for the subsistence of such insolvent debtor and his family, (if any he has,) as the said trustee shall think meet: *Provided,* That such allowance do not exceed five per cent. of all the money received upon such insolvent debtor's account.

In what cases plaintiff shall be liable for maintenance of debtor, &c. Proviso.

Ib., § 20; 1817, VI, 66; 1839, XI, 46, 30.

2 N. & McC., 377; 4 McC., 508; 3 Br. v., 291, 391; 1 Hill, 422; 2 Spears, 400; Dudley, 71; 2 McM., 340; 3

SEC. 11. Where any person shall be taken on mesne or final process in any civil suit, and, from inability to pay the demand, debt or damages, or find bail, if committed to the jail, and such person has no lands, tenements, goods, chattels, or *choses in action,* whereby his maintenance in jail can be defrayed, the plaintiff, or person at whose instance such party shall be imprisoned, shall pay and satisfy the same; and if such person, or his attorney, shall refuse or neglect, after ten days' previous notice, to pay, or give security to pay the same, when demanded, the Sheriff, or Jailer, in whose custody such prisoner is, may discharge him from such

confinement: *Provided, however*, That such prisoner shall, before he is discharged, render, on oath, a schedule of all his estate, and assign the same.

Strob., 161; 3 Rich., 103; 4 Rich., 253; 6 Rich., 225.

SEC. 12. Any person who shall, within twelve months after the discharge of any such prisoner, voluntarily come in and make a discovery of any part of such debtor's real or personal estate, subsisting at the time of his swearing off, as shall not be comprised in his schedule, shall be allowed after the rate of fifty per cent. out of the net produce of such estate so discovered, and which shall be recovered on such discovery, to be paid by the trustee or assignee of such debtor's estate and effects.

Fifty per cent. allowed to persons discovering concealed estates 1759, V, 93, § 18.

TITLE VII.

OF LEGAL NOTICES AND FEES.

CHAPTER CXXV. *Of the Publication of Legal Notices.*
CXXVI. *Of the Fees of Certain Officers.*

CHAPTER CXXV.

OF THE PUBLICATION OF LEGAL NOTICES.

SEC. 1. The Attorney General, Comptroller General and Secretary of State to designate papers.
SEC. 2. State and County officers to publish in papers designated.

SECTION 1. It shall be the duty of the Attorney General, the Comptroller General and the Secretary of State, conjointly, to designate, by public notice in one or more newspapers in this State, in which all legal notices, advertisements, or publications for the State, of any and every character required by law to be made public, shall be published: and further to designate a proper number of newspapers for the several Counties of this State, in which all legal notices, advertisements or publications, for the County or Counties for which, respectively, each paper shall be designated, of any and every character required by law to be made public, shall be published; and said Attorney General, Comptroller General and Secretary of State, shall have power to make such changes and new designations, from time to time, as they may judge the public interest requires.

The Attorney General, Comptroller General and Secretary of State to designate papers 1870, XIV, 351, 1.

SEC. 2. All State and County officers, and other persons, are hereby required to furnish to the newspapers designated under this Chapter, for the State and for the respective Counties, for publication, all legal notices, advertisements and publications, of any and every character required by

State and County officers to publish in papers designated. Ib., § 2.

law to be made public; and no legal notice, advertisement or publication required by law to be made public, shall have any valid force or effect unless published in the newspaper or newspapers designated under this Chapter; and no publication, of any character, in any newspaper not designated under this Chapter, shall be paid for from the funds of this State, or of any County: *Provided*, That the said officers mentioned in Section 1 shall have power, in cases requiring unusual publicity, to order publication in such newspapers, in addition to those designated under this Chapter, as by and with the advice of the Governor they may select; and bills so incurred shall be audited and paid in the usual manner.

Payment

CHAPTER CXXVI.

Of the Fees of Certain Officers.

SEC.
1. Fees of officers.
2. Secretary of State.
3. Register of Mesne Conveyances.
4. Clerks of the Courts of Common Pleas and General Sessions.
5. Commissioners of Locations.
6. Sheriffs.
7. Coroners.
8. Constables.
9. Notaries Public.
10. Judge of Probate.
11. Trial Justices.
12. Jurors and Witnesses.
13. Deputy Surveyors.
14. County Auditor.
15. Appraisers, &c.
16. Clerks of Court, Registers of Mesne Conveyances, Commissioners of Locations, Judges of Probate, and Sheriffs, may issue execution for costs, &c.

Fees of officers
1870, XIV, 398, § 1.

SECTION 1. The fees which the several officers hereinafter mentioned shall be authorized to receive in the several cases herein specified, respectively, shall be as follows, viz:—

Secretary of State.

Secretary of State.
1790, V, 153, § 2; 1799, V, 155, § 4
See Miller's Comp., p. 118.

SEC. 2. For every search, fourteen cents; for a commission for a place of profit, three dollars and twenty-one cents; for entering satisfaction on a mortgage, twenty-one cents; for recording a mark or brand, twenty-one cents; for recording or copying any writing, for every copy-sheet containing ninety words, nine cents; for making out a grant of lands, recording and fixing great seal, two dollars and fourteen cents; for a testimonial, with the great seal, one dollar and seven cents; for registering the certificate of a person becoming a denizen, twenty five cents; for a family, not exceeding three, fifty cents; for a family, exceeding three, one dollar.

Register of Mesne Conveyances.

Register of Mesne Conveyances.
1836, XI, 15, § 1; 1870, XIV, 407, § 9

SEC. 3. For recording and copying deeds or other papers, per copy sheet of one hundred words, twenty-five cents; for entering satisfaction on mortgage, twenty-five cents; for recording or copying plats, of not more than six corners, one dollar; and for every corner over six, six and a quarter cents; for every probate in writing, twenty-five cents; for every search, twelve and a half cents; for every certificate, twenty-five cents.

Clerks of the Courts of Common Pleas and General Sessions.

Clerks of the Courts of Common Pleas and General Sessions.

Ib.* Miller's Compilation, 110.

SEC. 4. For signing and sealing subpœna writ, State cases, fifty cents; for administering oath, twenty-five cents; for taking and filing bonds in attachment and other cases, one dollar and fifty cents; signing and sealing commission to examine witness, one dollar; recording plat under order of Court, one dollar; rule of survey, one dollar; each official certificate under seal, fifty cents; issuing writ of attachment for contempt, or other special writ, one dollar and fifty cents; signing and sealing writ of *hab. fac. possessionem*, one dollar; receiving and paying over money officially, under three hundred dollars, two per cent.; over that amount, one per cent.; on bill *nol. pros.*, before given out, two dollars; on bill thrown out by Grand Jury, or found, and *nol pros.*, abated, discontinued or struck off, three dollars; on bill found and verdict by petit jury, four dollars; issuing bench warrant, two dollars; issuing each execution in Sessions, two dollars; signing and sealing writ of *habeas corpus*, three dollars; issuing warrants, taking recognizance or other services in Sessions, the same fees as allowed to Trial Justices; each writ of *venire facias*, including all services incident to summoning jurors, two dollars and fifty cents; preparing and issuing certificates for grand and petit jurors, and Constables, and furnishing return to County Commissioners, for each week of every term of the Court, ten dollars; furnishing advertisement in case of escheat, exclusive of printer's bill, and recording proceedings thereon, five dollars; for advertising and giving notice to Commissioners of Elections, in case of vacancy in office, each, ten dollars; for license to an attorney, all incidental services included, five dollars; filing and entering notice of alien's intention to become a citizen, one dollar; filing and recording report of alien, one dollar; administering oath of intention, one dollar; filing and entering application to become a citizen and administering oath, two dollars; for giving certificate of citizenship, one dollar; taking renunciation of dower or inheritance, two dollars; for official record of estray and filing papers, one dollar and fifty cents; every search for a paper, fifteen cents; every search, with certificates, fifty cents; swearing Trial Justice or Constable in office, and certificate thereof, and taking bonds, two dollars; for recording bonds of County officers and certifying to same, one dollar and fifty cents; for recording proceedings in each case as required by law, one dollar and fifty cents; all orders for bastardy and taking recognizance, one dollar; for filing petition and signing writ *de lunatico inquirendo*, one dollar; for filing inventory and order of discharge of debtor, fifty cents; for granting rules against creditors, fifty cents; for every probate in writing, twenty-five cents; for signing *dedimus potestatem*, two dollars; for official certificate to exemplification of record, one dollar; for official certificate in case requiring seal, fifty cents; on every trial, from the party bringing it on, two dollars; on filing transcript, twenty-five cents; on entering judgment, fifty cents; copy papers, per copy sheet of one hundred words, twenty five cents; signing and sealing each execution and renewal, fifty cents; for recording and copying deeds or other papers, per copy sheet of one hundred words, twenty-five cents; for every certificate on deeds

1839, XI, 14.

1869, XIV, 220, § 5.

1839, XI, 14. (See Chap. CXXIII, § 26.)

or other papers, twenty-five cents; recording certificate of amount due on liens, &c., the same fees as for recording mortgages of equal length; for hearing and trying applications for relief of persons confined on civil process, two dollars; if jury is required, issuing summons, and charging same, in addition, two dollars.

Commissioners of Locations.

Commissioners of Locations.

Ib., 15 Miller's Compilation, 1 9 (See Chap. VI, § 23.)

SEC. 5. For recording applications, making entries and granting warrants under hand and seal, seventy-five cents; for recording plat and sending to Secretary of State's office, one dollar and seventy-five cents; for each copy of plat and certificate, one dollar and twenty-five cents.

Sheriffs.

Sheriffs.

1870, XIV, 400, § 8.

SEC. 6. For entering every writ, process, warrant or execution, and making endorsements thereon, fifty cents; for serving every writ or summons, besides mileage, one dollar; for bond in any case, one dollar and fifty cents; for commitment and release, each, fifty cents; for serving each *venire* for Grand Jury, ten dollars; for serving each *venire* for petit jury, twenty dollars; for serving each bench or other warrant in the Sessions, attachment for contempt of Court, besides mileage, each, one dollar and fifty cents; search for person or goods not found and returned on the execution *non est inventus* or *nulla bona*, besides mileage, one dollar; levy, attachment, or other execution, besides mileage, one dollar and fifty cents; dieting persons, per day, forty cents; executing convict, including all charges for burial and other expenses, twenty-five dollars; bringing up prisoner under *habeas corpus*, to be paid by the prisoner, if able, (if not, by the County,) besides mileage, two dollars; conveying prisoner from one place to another, besides all necessary expenses, and returning, ten cents per mile; each guard for Sheriff, in conveying prisoner, two dollars per day; commissions on all moneys collected by him, if under three hundred dollars, two per cent.; if over that sum, two per cent. on the first three hundred dollars, and one per cent. on balance; one-half of one per cent. on all moneys paid out of office on all executions lodged; advertising defendant's property, in addition to printer's bill, one dollar; drawing deed or mortgage, three dollars; bill of sale, one dollar and fifty cents; each notice served on set of Commissioners of Election, besides mileage, one dollar and fifty cents; in case of ejectment, and ejecting tenant or others, besides mileage, five dollars; summoning Coroner's jury and witnesses, to be paid by the County, five dollars; for executing a writ of *habere facias possessionem*, besides mileage, one dollar; mileage from Court House to defendant or witness' residence, or place where found, going, but not returning, per mile, five cents; transferring money, bonds or other securities for money to party, one-half of one per cent.; for summoning freeholders to try suggestion of fraud under provisions of Sections twenty-one (21), and twenty-three (23), of Chapter CXXIII of this Act, five dollars.

1866, XIII, 109, § 2, 417, § 2.

Miller's Compilation, 112, 1840, XI, 149. § 2.

1873, VI, 192, § 3. 1 Rich., 191.

Coroners.

Coroners. 1870, XIV, 399, § 4.

SEC. 7. For every inquisition, ten dollars; for mileage, going and returning, per mile, five cents; for each warrant issued, fifty cents; for each commitment, fifty cents; for each recognizance, seventy-five cents; for each body disinterred, three dollars; for recording proceedings in each inquisition in his book, per copy sheet of one hundred words, fifteen cents; for performing the duties of Sheriff, the same fees as are allowed Sheriffs for like services.

Constables.

Constables. Ib., § 7.

SEC. 8. For summoning witness in civil case, fifty cents; for serving summons, rule or notice in any civil case, fifty cents; for serving attachment on each person, one dollar; for levying execution, posting advertisements of sale, and paying over proceeds, besides commission of three per cent. on amount collected, to be paid by the defendant in execution, fifty cents; for every day in search of stolen goods, to be paid by complainant, two dollars; for serving a warrant in any State case, one dollar; for selling an estray, five per centum of the proceeds, and, in all cases, for all actual and necessary travel one way, to be certified by the officer on the back of the process, in writing, five cents per mile; for all necessary service in case of ejectment, as well before as after judgment, five dollars; for summoning Coroner's jury, and witnesses, to be paid by the County, three dollars; for transportation of prisoners to County jail, ten cents per mile, to be paid by the County.

Notaries Public.

Notaries Public. Ib., § 8.

SEC. 9. For taking deposition and swearing witness, per copy sheet, twenty-five cents; for every protest, two dollars and twenty-five cents; for a duplicate of deposition, protest and certificate, per copy sheet, fifteen cents; for each attendance on any person to prove any matter or thing, and certifying the same, one dollar; for every notarial certificate, with seal affixed, one dollar; for administering an oath, twenty-five cents; for administering oath on affidavit, fifty cents; for taking renunciation of dower or inheritance, two dollars.

Judges of Probate.

Judges of Probate. Ib., 401, § 10.

SEC. 10. For petition for letters, &c., two dollars; for citation, one dollar; qualifying executor, administrator or guardian, issuing letters and recording same, four dollars; taking bond of administrator or guardian, and recording same, two dollars and fifty cents; issuing warrant of appraisement, one dollar; proving will in common form, two dollars; proving will in solemn form, ten dollars; for recording wills and certificates, per copy sheet of one hundred words, each figure counting a word, twenty-five cents; filing and entering renunciation of executor, one dollar; *dedimus potestatem* to prove will or qualify executor, two dollars and fifty cents; recording inventories, appraisements and sales, per copy sheet of one hundred words, each figure a word, twenty-five cents; receiving,

examining and filing annual returns, two dollars; for first and final return, each, three dollars and fifty cents; for recording returns, per copy sheet of one hundred words, twenty-five cents; order for sale of personal property, one dollar and fifty cents; hearing and filing petition for guardians, and appointment, five dollars; entering *caveat* and withdrawing same, one dollar; for hearing litigated cases, five dollars; issuing summons, for each witness, fifty cents; qualifying and examination of each, twenty-five cents; for proceedings in partition of real estate worth less than one thousand dollars, fifteen dollars; for appointing guardians *ad litem*, three dollars; for proceedings in partition of real estate worth more than one thousand dollars, thirty dollars; commissions on all moneys received and paid out, two per cent. on the first three hundred dollars, and one per cent. for all sums over that amount; for search for each paper, fifteen cents; for certificate and seal, fifty cents; for copying papers on file in office, per copy sheet of one hundred words, twenty-five cents; for final discharge of executor, administrator or guardian, two dollars; for proceedings in dower, inclusive of all charges, twenty dollars; for proceedings in lunacy, inclusive, five dollars.

Trial Justices.

Trial Justices.

Ib., 393, § 1.

SEC. 11. For oath and warrant in any criminal case, fifty cents; each recognizance, fifty cents; commitment and release, each, fifty cents; administering and certifying oath in writing, other than above, fifty cents; issuing writ of *habeas corpus* to two Justices, jointly, two dollars; issuing summons and copy for defendant in civil cases, sixty cents; issuing summons for witness in any civil case, fifty cents; taking examination of witness in writing in any case as prescribed by law, one dollar; for giving judgment on hearing litigated case, fifty cents; for giving judgment in case not defended, fifty cents; for issuing execution or renewal of the same, fifty cents; report of case, and taking bond to appeal, one dollar and fifty cents; for issuing attachment, returnable to Court or Justice, including all notices, one dollar and fifty cents; for filing return of garnishee, and order thereon, twenty-five cents; for proceedings in case of ejectment, five dollars; for approval of indentures of apprentices or servants, one dollar; for proceedings on Coroner's inquest, as prescribed by law, ten dollars; for proceedings on estray of horse or mule, one dollar; for proceedings on all other estrays, fifty cents; for taking and certifying renunciation of dower or inheritance, two dollars; for granting order for special bail, one dollar; for trial of any criminal case or misdemeanor, three dollars; for administering oath, twenty-five cents; for administering oath on affidavit, fifty cents; proceedings in case of bastardy, inclusive, five dollars; for attending and acting for the preservation of wrecked vessels and goods, three dollars per day out of the saved vessel, goods or effects; proceedings against vagrants and returning report thereof, two dollars; hearing and determining applications for relief of persons confined on civil process, the same fees as are allowed the Clerk of Court.

1783, IV, 552, § 6. (See Chap. LXXIII, § 2.)

1840, XI, 150.

Jurors and Witnesses.

Jurors and witnesses.

1858, XII, 740, § 1; 1870, XIV, 399, § 6.

1722, VII, 170, § 18; 1785, VII, 219, § 16; 1791, V, 155; 1870, XIV, 399, § 5. (See Chap. XIX, § 21, 22.)

SEC. 12. For attendance at Court as a grand or petit juror, one dollar and fifty cents per day, besides mileage, at five cents per mile, going and returning; for attendance at Court as a witness in a civil case, one dollar a day, and five cents per mile for coming to Court and the same for returning, besides ferriages, to be paid by the party summoning such witness; for attendance at Court as a witness in a criminal case, one dollar and fifty cents a day, besides mileage at five per mile, going and returning, to be paid by the County wherein the offence shall have been committed.

Deputy Surveyors.

Deputy Surveyors.

1791, V, 158. (See Miller's Comp., 114, and Chap. VI, § 23.) Tr Con R., 474; 1 Hill, 399; 1 Bail., 592; 1 McM., 73.

SEC. 13. For surveying every acre of land, one cent; for making out a fair plat, certifying, signing and returning the same, two dollars and fourteen cents; for running old lines for any person, or between parties, or by order of Court, while they are on the survey, per day, three dollars.

County Auditor.

County Auditor.

1871, XIV, 621, § 1, ¶ 4.

SEC. 14. For every entry and endorsement on any deed of conveyance of real property recorded in his office, twenty-five cents.

Appraisers, &c.

Appraisers, &c.

1788, IV, 724, § 6; 1839, XI, 61, § 14; 1868, XIV, 21, § 6.

SEC. 15. Appraisers to appraise the estate of deceased persons, one dollar per day; appraisers to set out the homestead, two dollars per day; freeholders summoned to survey rice lands, as provided by Chapter XLIX of this Act, one dollar and fifty cents per day, and five cents per mile going to and returning from the place of meeting.

Clerks of Court, Registers of Mesne Conveyances, Commissioners of Locations, Judges of Probate, and Sheriffs, may issue executions for costs, &c.

1839, XI, 17, § 3.

SEC. 16. Whenever an action may be settled or determined, at the mutual cost of parties, or discontinued by plaintiff, or the judgment shall be for defendant, the Clerk of Court, Register of Mesne Conveyances, Commissioner of Locations, Judge of Probate, or Sheriff, shall have power to issue an execution for his costs; or the Clerk may issue for the whole, directed to the Sheriff, who is authorized and required to execute such process, as in other cases of execution delivered to him.

PART IV.

OF CRIMES, PUNISHMENTS, PROCEEDINGS IN CRIMINAL CASES, AND PRISONS.

TITLE I.

OF CRIMES AND PUNISHMENTS.

CHAPTER CXXVII. *Of the Rights of Persons Accused.*
CXXVIII. *Of Offences Against the Person.*
CXXIX. *Of Offences Against Property.*
CXXX. *Of Forgery and Offences Against the Currency.*
CXXXI. *Of Offences Against Public Justice.*
CXXXII *Of Offences Against the Public Peace.*
CXXXIII. *Of Offences Against Chastity, Morality and Decency.*
CXXXIV. *Of Offences Against the Public Health.*
CXXXV. *Of Offences Against Public Policy.*
CXXXVI. *Of Offences Against Civil Rights.*
CXXXVII. *Of Felonies, Accessories and Abettors.*

CHAPTER CXXVII.

OF THE RIGHTS OF PERSONS ACCUSED.

SEC.
1. Persons arrested to be informed of ground of arrest, &c. Penalty for false answers, &c.
2. Offences to be prosecuted by indictment, except, &c.
3. Party accused may have counsel, &c.
4. Persons indicted, how committed.
5. When no defense.
6. No person to be punished until legally convicted.

Persons arrested to be informed of ground of arrest, &c.

New. Suggested by Com'rs. 2 Haw., 85; Hale's P. C., 458-461; Pressley's Law of Magistrates, 53; 1 Hill, 327.

SECTION 1. Every person, arrested by virtue of process, or taken into custody by an officer in this State; has a right to know, from the officer who arrests or claims to detain him, the true ground on which the arrest is made; and an officer who refuses to answer a question relative to the reason for such arrest, or answers such question untruly, or assigns to the person arrested an untrue reason for the arrest, or neglects, on request, to exhibit to the person arrested, or any other person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished as for a midemeanor.

Offences to be prosecuted by indict-

SEC. 2. No person shall be held to answer in any Court for an alleged crime or offence, unless upon indictment by a grand jury, except in the following cases:

1. When a prosecution by information is expressly authorized by statute;

2. In proceedings before a police court or Trial Justice; and,

3. In proceedings before courts martial.

ment except, &c.
Ib.
Con., Art. I, § 25.
Code of Procedure, § 447.
1 N & McC, 2 .

SEC. 3. The accused shall, at his trial, be allowed to be heard by counsel, may defend himself, and shall have a right to produce witnesses and proofs in his favor, and to meet the witnesses produced against him face to face.

Party accused may have counsel &c
Ib.
Con., Art. I, § 13.

SEC. 4. No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open Court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury accepted and recorded by the Court.

Persons indicted, how convicted.
Ib.

SEC. 5. If a person is, on his trial, acquitted upon the ground of a variance between the indictment and the proof, or upon an exception to the form or substance of the indictment, he may be arraigned again on a new indictment, and tried and convicted for the same offence, notwithstanding such former acquittal.

When no defence.
Ib.
Rice, 1.

SEC. 6. No person shall be punished for an offence unless duly and legally convicted thereof in a Court having competent jurisdiction of the cause and of the person.

No person to be punished until legally convicted.
Ib.

CHAPTER CXXVIII.

OF OFFENCES AGAINST THE PERSON.

SEC.
1. Murder defined.
2. Punishment.
3. Killing by stabbing, murder.
4. Killing by poisoning, murder.
5 Attempts to poison.
6. Manslaughter.
7. Challenging to fight.
8. Carrying challenges, &c.
9. Any one concerned in a duel may give evidence without criminating himself.
10. If two are concerned, one may be used in evidence.
11. Assaults with deadly weapons.
12. Rape.
13. Carnal knowledge of woman-child under ten.
14. Kidnapping sailors.
15. Kidnapping minors.
16. Punishment for injuries from steamboat explosions, &c.
17. Willful neglect of railroad employees.
18. Obstructing railroads.
19. Place of trial for certain injuries resulting in death.
20. When injury is inflicted beyond limits of State, &c.
21. Where parties are in different Counties, &c.

SECTION 1. Murder is the killing of any person with malice aforethought, either express or implied.

Murder defined.
52 H. 3, c. 25; 1712, II, 418.
Keyling, 123;

Co. Ent., 354; 2 Inst., 148; 2 Rol., 120; 2 Rice's Digest, 104-5; 2 Hill, 619; 1 Spears, 146, 384; 2 Strob., 77; 5 Strob., 91; 10 Rich., 34 ; 12 Rich., 402

Punishment.
1868, XIV, 175, § 1.

SEC. 2. Whoever is guilty of murder shall suffer the punishment of death.

Killing by stabbing, murder.
1 J. 1, c. 8; 1712, II, 507, §§ 2, 3. Stile, 86, 468; 1 Hale's P. C., 466; Foster's Rep. of Crown Cases; Allen, 43, 44.

SEC. 3. Whoever shall stab or thrust any person or persons that has not then any weapon drawn, or that has not then first stricken the party which shall so stab or thrust, so as the person or persons so stabbed or thrust shall thereof die within the space of six months then next following, although it cannot be proved that the same was done of malice aforethought, yet the party so offending, and being thereof convicted, shall suffer death as in the case of willful murder: *Provided,* That nothing herein contained shall extend to any person who shall kill any person or persons in self-defence, or by misfortune, or in any other manner than as aforesaid; nor to any person who, in keeping and preserving the peace, shall chance to commit manslaughter, so as the said manslaughter be not committed wittingly, willingly and of purpose, under pretext and color of keeping the peace; nor shall extend to any person who, in chastising or correcting his child shall, besides his or their intent and purpose, chance to commit manslaughter.

Killing by poisoning murder.
1 Ed. 6, c. 12; 1712, II, 479. 1 Bulstr., 87; Plowd., 473; 4 Coke, 47.

SEC. 4. All willful killing by poisoning of any person or persons, shall be adjudged, taken and deemed willful murder of malice prepense; and the offenders therein, their aiders, abettors, procurers and counsellors, shall suffer death, as in other cases of willful murder.

Attempts to poison.
1859, XII, 832. Amended by Com'rs.

SEC. 5. Whoever shall unlawfully and maliciously administer to, or cause to be taken, by any person, any poison or other destructive thing, with intent to kill such person, every such offender, and every person counselling, aiding or abetting such offender, shall be guilty of felony, and shall be punished by imprisonment in the penitentiary not exceeding ten years nor less than two years.

Manslaughter
1869, XIV, 175, § 2.

SEC. 6. Manslaughter, or the unlawful killing of another without malice, express or implied, shall be punishable by hard labor in the penitentiary, not exceeding thirty years nor less than two years.

Challenging to fight.
1812, V, 671, § 1; 1869, XIV, 252, § 1. (See Con., Art. I, § 32. 3 Brev., 243; 2 N. & McC., 181; 2 Spears, 253; 2 McC., 334; 1 McM., 126.

SEC. 7. Whoever shall challenge another to fight at sword, pistol, rapier, or any other dangerous weapon, or who shall accept any such challenge, shall, for every such offence, on conviction thereof, be deprived of the right of suffrage, and be disabled forever from holding any office of profit or honor under this State, and shall be imprisoned in the penitentiary for a term not exceeding two years, at the discretion of the Court.

Carrying challenges, &c.
Ib., § 2. 2 N. & McC., 12; 2 Spears, 247.

SEC. 8. Whoever shall willingly or knowingly carry or deliver any such challenge, in writing, or verbally deliver any message intended as, or purporting to be, such challenge, or who shall be present at the fighting of any duel as a second or aid, or give countenance thereto, shall, for every such offence, on conviction thereof, be forever disabled from holding any office of profit or honor under this State, and shall be im-

prisoned in the Penitentiary for a term not exceeding two years, at the discretion of the Court.

SEC. 9. Upon the trial of all indictments for duelling, any person concerned therein, either as principal or second, or as counselling, aiding and abetting in such duel, shall and may be compelled to give evidence against the person or persons actually indicted, without criminating himself, or subjecting or making himself liable to any prosecution, penalty, forfeiture or punishment on account of his agency in such duel.

Any one concerned in a duel may give evidence without criminating himself.

1823, VI, 208, § 1. 2 N. & McC., 13.

SEC. 10. In every case where two or more persons shall be charged in any indictment for fighting a duel, or being concerned therein, either of such persons may be used as a witness or witnesses in behalf of the State, by having his or their names stricken out of the indictment, or otherwise, at the discretion of the Attorney General or Solicitor, or other attorney acting for the State, conducting such prosecution, of which an entry shall immediately be made on the minutes of the Court; and in case any such person or persons so used as a witness or witnesses in behalf of the State, in any prosecution for fighting a duel, or for being concerned therein, shall afterwards be indicted for the same offence, the fact of his or their being used as a witness or witnesses on the former prosecution for the same offence, shall and may be pleaded in bar to such subsequent indictment, and on proof thereof, by competent evidence, such person or persons shall be thereof acquitted and discharged.

If two are concerned, one may be used in evidence.

Ib.

SEC. 11. Whoever shall make an assault upon another person with any deadly weapon, carried concealed about the person, every such person, upon conviction, under indictment, shall be fined not less than two hundred, and not more than two thousand dollars, and shall be imprisoned for a period not exceeding six months, at the discretion of the Court, and shall, moreover, be required by the Court to find sureties for the peace and for good behavior for one year after the termination of such imprisonment.

Assaults with deadly weapons.

1858, XII, 713.

SEC. 12. Whoever shall ravish a woman, married, maid, or other, where she did not consent, neither before nor after, and likewise, where a man ravisheth a woman with force, although she consent after, he shall be deemed guilty of rape, and shall be punished by hard labor in the Penitentiary for life, or for a period not less than ten years, according to the aggravation of the offence.

Rape.

13 Ed. I. c. 34; 1712, II, 422; 1869, XIV, 175, § 3.

SEC. 13. If any person shall unlawfully and carnally know and abuse any woman-child under the age of ten years, every such unlawful and carnal knowledge shall be felony, and the offender thereof, being duly convicted, shall suffer as for a rape.

Carnal knowledge of woman-child under 10.

18 Eliz., c. 7; 1712, II, 498, § 1. 3 Brev., 539.

SEC. 14. Any attempt, by fraud or force, to ship, against his will, any person as a seaman, on board any vessel in any port of this State, is hereby declared a misdemeanor, to be punished by fine and imprisonment, at the discretion of the Court.

Kidnapping sailors

1855, XII, 402, § 1.

Kidnapping minors.
1871, XIV, 546, § 2.

SEC. 15. If any person shall procure and carry without the limits of the State any minor or person under the age of twenty-one years, without the consent of the parents or guardian of such minor, such person shall, upon conviction thereof, be fined in a sum not less than one hundred, nor more than five hundred dollars, or be imprisoned in the Penitentiary of the State for a period of not less than one year.

Punishment for injuries from steamboat explosions, &c.
1837, VI, 57, § 1.

SEC. 16. If any person within this State shall suffer injury to life or limb, by the explosion of any boiler of a steamboat, or by reason of the unskillfulness, mismanagement or negligence of the person or persons having the charge or command of the said boat, or her engine, or by reason of any defect in the said engine or boat, or by reason of the deficiency or want of any matter or thing necessary and proper for the management or seaworthiness of the said boat, the captain, master or other person having the command or charge of such boat, shall, for every such injury, be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the Court before which such conviction shall be had: *Provided, however,* That nothing contained in this Section shall be so construed as to prevent the defendant from showing on the trial, that the injury arose from unavoidable accident, and without fault on his part, and that this Section shall not in any manner be construed to restrict the liability of any person to be indicted, tried and punished, under any law now existing.

Willful neglect of railroad employees.
1857, XII, 634.

SEC. 17. Any engineer or conductor of any railroad company in this State who shall willfully neglect to observe, or shall willfully violate any rule or regulation of the company to which such engineer or conductor may belong, whereby any person or persons shall sustain, or be in danger of sustaining, any bodily injury, such engineer or conductor shall be liable to be indicted for every such offence, and, upon conviction thereof, be fined two hundred dollars, and imprisoned not exceeding one year, at the discretion of the Judge before whom such case may be tried: *Provided, however,* That nothing herein contained shall be so construed as to relieve such engineer or conductor from responsibility, in cases where the life of any person is destroyed, under the law as it now exists.

Proviso.

Obstructing railroads.
1 5, XII, 101.

SEC. 18. If any person or persons shall willfully and maliciously place, or cause to be placed, on the track or other part of the passage way of any railroads, on which steam engines or hand cars are used, any timber, stone, or other obstruction, with intent to injure or impede the passage of any cars or means of conveyance, such person or persons shall be deemed guilty of felony, and, on being thereof convicted, by due course of law, shall be sentenced as follows: Should such obstruction cause any hurt, maim, or serious personal injury, to any human being, not causing death within a year and a day, the offender shall be sentenced to such fine and imprisonment as the Court may impose, and shall be adjudged a felon; and should the death of any human being result from said impediment, within a year and a day, the offender shall be adjudged guilty of murder, and shall suffer death: *Provided,* That nothing herein

Proviso.

shall in any manner take away any right of action for damages for injuries to the person or property of any person or body corporate caused by any injury, obstruction or damage done to any railroad or its buildings, tracks or constructions.

Place of trial for certain injuries resulting in death. 1859, XII, 822, § 1.

SEC. 19. When any person shall be struck, wounded, poisoned, or otherwise injured or ill treated within the limits of this State, and shall die thereof beyond the limits of this State, whether on the high seas or elsewhere, the person so striking, wounding, poisoning, or otherwise causing death as aforesaid, shall be subject to indictment, trial and punishment in the County in which said stroke, wound, poisoning, or other injury or ill treatment was committed, in all respects the same as if the death had occurred in the said County.

When injury is inflicted beyond limits of State, &c. Ib., § 2.

SEC. 20. Where any person within the limits of this State shall inflict an injury on any person, who, at the time said injury is inflicted, is beyond the limits of this State, or where any person beyond the limits of this State shall inflict an injury on any person, at the time, within the limits of this State, and such injury shall cause the death of the person injured, in either case the person causing such death shall be subject to be indicted, tried and punished; in the first case, in the County of this State where the person inflicting the injury was at the time when the same was inflicted; and, in the second case, in the County in which it was received; and the procedure and punishment shall be in all respects the same as if both parties were within the said County at the time said injury was inflicted, and the homicide had been in all respects completed in said County.

Where parties are in different Counties, &c. Ib., 823, § 3.

SEC. 21. Where any injury is inflicted by any person within the bounds of one County of this State, on a person within the bounds of another County, and death shall ensue therefrom, and the party dies within this State, indictment, trial, and punishment shall be the same as if the homicide had been committed altogether within the County where the party dies; and where the party dies without the jurisdiction of this State, indictment, trial and punishment shall be the same as if the homicide had been completed in the County where the injury causing death was received.

CHAPTER CXXIX.

OF OFFENCES AGAINST PROPERTY.*

SEC.
1. Burning houses and public buildings.
2. Burning, &c., stacks of corn, &c., in night time.
3. Burning, &c., stacks of corn, &c., in day time.
4. Burning places of lumber prepared for building.
5. Burning carts, wood, &c.
6. Setting fire to grass, &c.
7. Punishment of burglary.
8. Stealing of bonds, &c., punishable as stealing of goods of like value, &c.
9. Stealing from the field.
10. Stealing or letting loose boats; informer's share.
11. Breach of trust with fraudulent intent.
12. Larceny of goods, &c.
13. Stealing horses, &c.
14. Restitution of stolen goods.
15. Stealing bedding or furniture from lodgings.
16. Stealing from the person.
17. Obtaining goods under false pretenses.
18. Buying and selling stolen goods.
19. Malicious wounding and destruction of horses, &c.
20. Malicious injury to trees, houses, &c.
21. Criminal action only allowed.
22. Penalty for disfiguring animals.
23. Penalty for disfiguring; sheep, hogs, &c.
24. Obstructing creeks, &c.
25. Obstructing fish shoals.
26. Entry on lands of another a misdemeanor.
27. Swindling.
28. Proceedings to be taken under preceding Section.
29. Injuring bridges.
30. Obstructing ditches and drains.
31. Cutting down shade trees on public road.
32. What deemed a dwelling house in cases of burglary and arson, and what are parcels of a dwelling house.
33. Destroying, &c., monuments, signals, &c., constructed by U. S. Coast Survey.
34. Reward for apprehending burglars, &c.
35. Judge to decide as to reward in case of dispute.
36. Persons maimed or killed in endeavoring to apprehend felons, entitled to an annuity.

Burning houses and public buildings.

1861, XII, 862.

SECTION 1. That the willful and malicious setting fire to, or burning, any house, of whatever name or kind, within the curtilage or common enclosure of a dwelling house, or within the curtilage or common enclosure of any house or room wherein persons habitually sleep, whereby any such dwelling house or sleeping apartment shall be endangered; also, the willful and malicious setting fire to or burning any Court House or other public building, whether owned by the State or a corporation, or a building owned by an individual or individuals, and kept or let for public meetings or exhibitions, barn, stable, coach house, gin house, store house, ware house, grist or saw mill, railroad depot, coach or cotton factory, or other house used for manufacturing purposes, of whatever name or kind, or setting fire to or burning any house habitually used for public religious worship, shall be deemed arson, whether such setting fire to or burning be in the day or night time; and the person setting fire to or burning any such house, as aforesaid, and his or her aiders, abettors and accessories before the fact, shall, upon conviction, be punished by hard labor in the Penitentiary for life, or for a period not less than ten years, according to the aggravation of the offence.

Burning stacks of corn, &c., in night time.

22 & 23 C. 7, c. 7; 7 2, H. 721, § 2; 1869, XIV, 175 § 7.

3 Rich. 42; 4 Strob., 372-99; 10 Rich., 23.

SEC. 2. Whoever shall in the night time maliciously, unlawfully and willingly, burn or cause to be burned or destroyed, any ricks or stacks of corn, hay or grain, or kilns, shall, for every such offence, be punished by hard labor in the penitentiary for life, or for a period not less than ten years, according to the aggravation of the offence.

*NOTE.—For other offences against property, see:—*Highways*, Chapter 44, Sections 6, 9, 14 and 19; *Water Courses*, Chapter 46, Sections 9, 12, 13 and 14; *Bridges, Turnpikes and Ferries*, Chapter 47, Sections 2, 3, 5, 11, 12, 18, 19, 20, 21, 22, 25, 26, 28 and 29; *State Road*, Chapter 48, Sections 14, 15 and 17; *Drifted Lumber*, Chapter 72; *Of the Protection of Game*, Chapter 77, Sections 2, 10, 14, 15, 16, 21, 22 and 23; *Of the Protection of Oyster Beds*, Chapter 78, Sections 1 and 2.

Burning stacks of corn, &c., in day time.

1 28, VI, 367, 1.

SEC. 3. Whoever shall maliciously, unlawfully and willfully burn, or cause to be burnt or destroyed, any ricks or stacks of corn, or grain, or kilns, in the day time, such person shall be adjudged guilty of a misdemeanor, and liable to be fined and imprisoned in the discretion of the Court, for said offence.

Burning and cutting frames of timber prepared for building.

37, II, 75, c. 63; 17, 2, II, 78, 2. Amended by Comm'rs.

SEC. 4. Whoever shall maliciously, unlawfully, willingly and secretly burn, or cause to be burned, cut, or cause to be cut or destroyed, any frame or frames of timber of any other person or persons, made and prepared, or hereafter to be made or prepared, for or towards the making of any house or houses, so that the same shall not be able for the purpose for which it was prepared, shall be deemed and adjudged a felon, and shall be punished by imprisonment in the penitentiary for a period not to exceed ten years nor less than two years.

Burning carts, wood, &c.

Ib., 74

SEC. 5. Whoever shall maliciously, willingly and unlawfully burn, or cause to be burned, any wain or wains, cart or carts, laden, or to be laden, with coals or any other goods or merchandises of any other person or persons or maliciously, willingly and unlawfully do burn, or cause to be burned, any heap or heaps of wood of any other person or persons, prepared, cut and felled, or to be prepared, cut or felled, for making of coals, billets or talwood, shall not only lose and forfeit unto the party grieved treble damages for such offence or offences, the same to be recovered by action, but also shall be punished by fine and imprisonment, in the discretion of the Court.

Setting fire to grass, &c.

785, V, 125, § 5; 1857, XII, 617. 10 Rich., 20.

SEC. 6. Whoever shall willfully and maliciously set fire to, or burn, any grass, brush, or other combustible matter, so as thereby any woods, fields, fences, or marshes, of any other person or persons, be set on fire, or cause the same to be done, or be thereunto aiding or assisting, shall, upon indictment and conviction thereof, be liable to fine and imprisonment, at the discretion of the Court, and shall, moreover, be liable to the action of any person or persons who may have sustained damage thereby: *Provided*, That no person or persons shall be prevented from firing woods, fields, lands or marshes within his, her or their own bounds, so that he, she or they suffer not the fire to get without the bounds of his, her or their lands, and injure the woods, fence or grass of his neighbor or neighbors.

Punishment of burglary.

1869, XIV, 175, § 3. 1 N. & McC., 5-3.

SEC. 7. The crime of burglary shall be punishable by hard labor in the penitentiary for a period not exceeding thirty years nor less than one year.

Stealing of bonds, &c., punishable as stealing of goods of like value, &c.

1737, III, 470, § 5. 3 Brev., 196; 1 N. & McC., 9, 91; 2 N. & McC., 3-2; 4 Rich., 356.

SEC. 8. Whoever shall steal, or take by robbery, any bond, warrant, bill or promissory note, for the payment, or securing the payment, of any money, being the property of any other person or persons, or of any corporation, notwithstanding any of the said particulars are termed in law a chose in action, it shall be deemed and construed to be felony if of or above the value of twenty dollars, and a misdemeanor if below the value of twenty dollars, in the same manner as it would have been if

the offender had stolen, or taken by robbery, any other goods of the like value with the money due on such bill, bond, warrant, or note, or secured thereby and remaining unsatisfied; and such offender shall suffer such punishment as he or she should or might have done, if he or she had stolen other goods of the like value with the moneys due on such bond, warrant, bill, or note, respectively, or secured thereby and remaining unsatisfied.

Stealing grain or cotton from the field.

1826, VI, 284; 1866, XIII, 405, § 4. Bail., 374; 1 Hill, 364

SEC. 9. Whoever shall steal from the field any grain or cotton not yet severed from the freehold shall be deemed guilty of felony, and, on conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one year nor more than five years, or in the jail for not less than three months nor more than six months, or by a fine of not less than fifty dollars nor more than five hundred dollars.

Stealing or letting loose boats.

1695, II, 165, § 1.

SEC. 10. Whoever shall steal, take away, or let loose any boat, periauger or canoe, or steal, or take away, any grappling, painter, rope, sail or oar from any landing or place whatsoever, where the owners or persons in whose service or employ they were last in, had made fast or laid the same (except all boats or canoes as are let loose from another boat, canoe or vessel,) shall be liable to such fine or fines as the Court shall, in their discretion, think fit, if the matter of fact be felony or larceny, and make good to the person or persons injured all damages they shall sustain; and, in case the matter of fact be a trespass only, the person or persons committing such offence shall make good to the person injured all damages that may accrue thereby, and, moreover, forfeit and pay for every time he or they shall be found guilty thereof the sum of twenty dollars, one moiety thereof to be paid to the State Treasurer, for the public use, the other moiety to him or them that will sue and prosecute for the same in any Court of record in this State, besides his charges therein expended.

Informer's share.

Breach of trust with fraudulent intent.

1866, XIII, 406, § 6.

SEC. 11. Any person committing a breach of trust with a fraudulent intention shall be held guilty of larceny; and so shall any person who shall hire or counsel any other person to commit a breach of trust with a fraudulent intention.

Larceny of goods, &c.

Ib., 407, § 14. 1 Rich., 31; 14 Rich., 163, 174; 15 Rich., 31, 39, 362.

SEC. 12. Any simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or any article of personalty, of which, by law, larceny may be committed, of all domesticated animals, and animals *fera naturæ*, which have in any degree been subjected to the control of any owner, of all growing crops, or parts thereof, of all annual products of the soil, whether severed from the soil or not, and of all such fixtures and parts of the soil as were severed from the soil by an unlawful act, below the value of twenty dollars, shall be a misdemeanor and considered a petit larceny.

Stealing horses, &c.

1839, VI, 413, ; (See 1865, XIII, 27, § 2; 1866, XIII, 405, § 1.)

SEC. 13. Whoever shall be indicted, and found guilty, of stealing a horse, mare, gelding, colt, filly, mule or ass, above the value of twenty dollars, shall be adjudged and deemed guilty of felony.

2 Brev., 443; 14 Rich., 76, 163.

Restitution of stolen goods.

2 H. 8, c. 15; 1712, II, 458.

SEC. 14. If any felon or felons do rob, or take away any money, goods or chattels, from any person, from their person or otherwise, found guilty thereof, the party so robbed, or owner, shall be restored to his said money, goods and chattels; and the Judges, before whom any such felon or felons shall be found guilty, shall award, from time to time, writs of restitution for the said money, goods and chattels.

Stealing bedding, furniture, &c., from lodgings.

3 & 4 W. & M., c. 9; 17 2, II, 532, § 5.

SEC. 15. Whoever shall take away, with intent to steal, embezzle, or purloin any chattel, bedding, or furniture, which, by contract or agreement, he or they are to use, or shall be let to him or them to use, in or with lodging, such taking, embezzling, or purloining, shall be, to all intents and purposes, taken, reputed and adjudged to be larceny and felony, and the offender shall suffer as in case of felony.

Stealing from the person.

8 Eliz. 2, c. 4; 1712, II, 456, 1858, XII, 706.
5 Rich., 231.

SEC. 16. The offence of privily stealing from the person shall, in all cases, be deemed and adjudged grand larceny, and subject to the same punishment.

Obtaining goods under false pretences.

33 H. 8, c. 1; 1712, II, 476, § 2.
3 Rich., 237.

SEC. 17. Whoever shall, falsely and deceitfully, obtain or get into his or their hands or possession, any money, goods, chattels, jewels or other things, of any other person or persons, by color and means of any false token or counterfeit letter made in any other man's name, every person or persons so offending, and being thereof lawfully convicted, shall suffer such imprisonment as the Court may adjudge.

Buying and selling stolen goods

1829, VI, 393, § 2; 3 & 4 W. & M., c. 9, 1712, II, 532, 4 Ann, St. 2, c. 9; 1712, II, 543, 2; 1769, IV, 307, § 3. Rice's Digest, vol. II, 65, 14, *et seq*; 3 Brev., 514; Mill, 274; 1 N. & McC., 512; 2 Strob., 273; 7 Rich., 497; 3 McC., 388; 1 Bail., 330.

SEC. 18. In all cases whatever, where any goods and chattels, or other property, of which larceny may be committed, shall have been feloniously taken or stolen by any person or persons, whether the offence of such person or persons so taking or stealing the same shall amount to grand larceny or some greater offence, or to petit larceny only, every person who shall buy or receive any such goods or chattels, or other property, knowing the same to have been stolen, shall be held and deemed guilty of, and may be prosecuted for, a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment, although the principal felon or felons be not previously convicted, or be convicted of petit larceny only, and whether he, she or they is, or are, amenable to justice or not.

Malicious wounding and destruction of horses, &c.

1857, XII, 605, § 1; 1857, XII, 963; (see 37 H. 8, c. 6; 17 2, II, 478, § 4; 22 & 23 C. 2, c. 7; 1712, II, 521.)

SEC. 19. Whoever shall willfully, unlawfully and maliciously, cut, shoot, main, wound or destroy any horse, mule, neat cattle, hog, sheep, goat, or other personal property, the goods and chattels of another, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined and imprisoned at the discretion of the Judge before whom the case shall be tried.

§ 2. 2 Hill, 389, 14 Rich., 203, 247; 15 Rich., 274

Malicious injury to trees, houses, &c.

1857, XII, 605, § 2.

SEC. 20. Whoever shall willfully, unlawfully and maliciously cut, mutilate, deface, or otherwise injure, the trees, houses, out houses, fences or fixtures of another, or commit any other trespass upon real property in the possession of another, shall be guilty of a misdemeanor, and, upon

conviction thereof, shall be fined and imprisoned at the discretion of the Judge before whom the case shall be tried.

Criminal action only allowed.
Ib., § 5.

SEC. 21. Whenever any person shall be prosecuted for any of the misdemeanors in the two preceding Sections created, the owner of the property injured shall not have the right to maintain a civil action for the same injury.

Penalty for disfiguring animals.
1789, V, 139, § 3.

SEC. 22. Whoever shall be lawfully convicted of willfully and knowingly marking, branding, or disfiguring any horse, mare, gelding, colt, filly, ass, mule, bull, cow, steer, ox, or calf, of or belonging to any other person, shall, for each and every horse, mare, gelding, colt, filly, ass, mule, bull, cow, steer, ox, or calf, of which he shall or may be convicted of branding or disfiguring, as aforesaid, be subject to the penalty of one hundred dollars; and, in case the said offender shall afterwards repeat or commit a like offence, on conviction thereof he shall be liable to the penalty or fine of two hundred dollars for each and every horse, mare, gelding, colt, filly, ass, mule, bull, cow, steer, ox, or calf, by him killed, branded, or disfigured, and of which he shall be convicted, as aforesaid.

Penalty for disfiguring sheep, hogs, &c.
Ib., 140, § 5.
3 Brev., 139; 12 Rich., 672.

SEC. 23. Whoever shall be lawfully convicted of willfully and knowingly marking, branding, or disfiguring any sheep, goat, or hog, of, or belonging to, any other person, shall, for each and every sheep, goat, or hog, of which he shall or may be convicted of branding or disfiguring, as aforesaid, be subject to the penalty of twenty-five dollars; and, in case the said offender shall afterwards repeat or commit a like offence, on conviction thereof he shall be liable to the penalty or fine of fifty dollars, for each and every sheep, goat, or hog by him killed, branded, or disfigured, and of which he shall be convicted, as aforesaid.

Obstructing creeks, &c.
1873, VI, 219, § 22; 1725, III, 269, §§ 1, 3; 1827, VI, 349.

SEC. 24. Whoever shall cut down, throw or fall, or cause to be cut down, thrown or fallen, into any river or navigable creek or cut, in this State, any timber or trees, and shall leave the said timber or trees in such river, creek, or cut, for the space of eight and forty hours, shall forfeit the sum of twenty-five dollars for every tree so cut down and left as aforesaid; to be recovered by the warrant of any Trial Justice, directed to any lawful Constable, on the goods of the offender, he returning the overplus, and to be disposed of, one half to the informer, and the other half to the poor of the County where the offence was committed.

Obstructing fish sluices.
1827, VI, 353, § 2.

SEC. 25. Whoever shall be convicted, by indictment in the Courts of General Sessions, of obstructing fish sluices in any of the rivers of this State, shall pay a fine of one hundred dollars.

Entry on lands of another.
1800, VIII, 106, § 7
15 Rich., 53.

SEC. 26. Every entry on the enclosed or unenclosed land of another, after notice from the owner or tenant prohibiting the same, shall be deemed a misdemeanor.

Swindling. 1791, V, 177, § 1. 1 Bay, 282; Dudley, 275; 5 Strob, 158.

SEC. 27. Whoever shall inveigle or entice, by any arts or devices, any other person or persons to play at cards or dice, or any other game, or bear a share or part in the stakes, wagers or adventures, or bet on the sides or hands of such as do or shall play as aforesaid, or shall sell, barter or expose to sale any kind of property which has been before sold, bartered or exchanged by the person so selling, bartering or exchanging, or by any person or persons, to his or their benefit or advantage, so selling, bartering, or exchanging, in any house or other place within this State, or be a party thereto, or overreach, cheat or defraud by any other cunning, swindling arts and devices, so that the ignorant and unwary, who are deluded thereby, lose their money or other property, every such person exercising such infamous practices shall, on conviction thereof, in any Court of this State exercising criminal jurisdiction, by trial by jury, be deemed guilty of enticing, inveigling, defrauding and swindling, forfeit a sum at the discretion of the Court and jury, besides refunding to the party aggrieved double the sum he was so defrauded of; and if the same be not immediately paid, with costs, every such person shall be committed to the common jail or house of correction, if there be any, of the County where such person shall be convicted, there to continue for any time not exceeding six months, unless such fine or fines, with costs, be sooner paid and discharged.

Proceedings to be taken under preceding Section. Ib, § 2.

SEC. 28. If complaint, on oath, be made to any one of the Trial Justices within the State of any person or persons having defrauded the party complaining, by inveigling, enticing, or by any swindling practices, within the meaning of this Chapter, he shall issue his warrant, directed to any Sheriff or lawful Constable, who is thereupon to apprehend such person or persons, and bring him or them before any one of the Trial Justices of the State, with the cause of his detention, who shall thereupon hold the party so brought before him to bail, with one or more sufficient sureties, to appear at the Court having jurisdiction to try such cause, and answer to any information to be then filed against him or them by the party so injured; but if the party refuse to give bail as aforesaid, the said Trial Justice shall be authorized and required to commit him or them to the common jail of the County in which the complaint is made, there to remain until the next sitting of the Court of the County having jurisdiction to try such cause, then to be brought up for trial.

Injuring bridges. 1785, IX, 294, § 9; 1788, IX, 311, § 11.

SEC. 29. Whoever shall wantonly or willfully injure or destroy any bridge or bridges built by authority of the County Commissioners of any two Counties over any river or creek lying between such Counties, on indictment and conviction of the same, at the Court of General Sessions in the County where the offence was committed, shall be subject to such fine and imprisonment as the said Court shall direct: *Provided*, That nothing herein contained shall extend, or be construed to extend, to any of the toll bridges already established by law, or that may be hereafter established.

Obstructing ditches and drains.

1826, IX, 570, § 28.

SEC. 30. Whoever shall obstruct, or cause to be obstructed, any ditch or drain on the side of any road, which has been, or may hereafter be constructed under the authority and at the expense of the State, or any ditch or drain, made as aforesaid, to drain the water from any part of the said roads, or any of them, by throwing into the said ditches or drains, any earth, logs, trees, bushes, or other things whatsoever, and shall not immediately remove the same when required, shall be deemed guilty of a nuisance, and, on conviction thereof, shall be fined in a sum not exceeding ten dollars nor less than two dollars, and shall be further liable for the expense of removing the nuisance.

Cutting down shade trees on public road.

1788, IX, 312, § 14.

Amended by Comm'rs.

SEC. 31. Whoever shall willfully or wantonly cut down or kill any tree growing within ten feet of any road which shall be laid out, altered or mended, by authority of the County Commissioners of any County, and which shall, by directions of the Highway Surveyor, in charge of such road, have been left standing as convenient for shade to the said road, for each tree so cut down or killed, shall be fined twenty-five dollars, by any Court of competent jurisdiction.

What deemed a dwelling-house in cases of burglary and arson, and what are parcels of a dwelling-house.

1866, XIII, 405, § 3.

SEC. 32. With respect to the crimes of burglary and arson, and to all criminal offences which are constituted or aggravated by being committed in a dwelling house, any house, out-house, apartment building, erection, shed or box, in which there sleeps a proprietor, tenant, watchman, clerk, laborer, or person who lodges there, with a view to the protection of property, shall be deemed a dwelling house; and of such a dwelling house, or of any other dwelling house, all houses, out-houses, buildings, sheds and erections which are within two hundred yards of it, and are appurtenant to it, or to the same establishment of which it is an appurtenance, shall be deemed parcels.

Destroying, &c., monuments, signals, &c., constructed by U. S. Coast Survey.

1847, XI, 444, § 4.

St. at Large U. S., vol. II, 413.

SEC. 33. If any person shall willfully and maliciously destroy, or in any manner hurt, damage or obstruct, or shall willfully and maliciously cause, or aid, or assist, or counsel, or advise, any other person or persons to destroy, or in any manner to hurt, damage, injure, or obstruct any signal, monument, building or any appendage thereto, used or constructed under and by virtue of the Act of Congress of the United States, passed the 10th day of February, 1807, entitled "An Act to provide for surveying the coast of the United States," and the supplements thereto, he shall be liable to be indicted therefor, and, on conviction, shall be imprisoned not more than one month, or pay a fine not exceeding fifty dollars, or both, at the discretion of the Court before which such conviction shall take place, and shall be further liable to pay all expenses of repairing the same, and it shall not be competent for any person so offending to defend himself by pleading, or giving in evidence, that he was the owner, or agent, or servant of the owner of the land where such damage was done, or caused, at the time the same was caused or done.

Reward for apprehending burglars, &c.
1769, IV, 307, § 1.

SEC. 34. Any person who shall apprehend and take any person guilty of burglary, or the felonious breaking and entering of any house, and prosecute him so apprehended and taken, until he be convicted of such burglary or felony, shall have and receive the sum of ten dollars, within six months after such conviction, to be paid by the State Treasurer, out of any money in the Treasury, such person rendering a certificate to the said Treasurer, under the hand of the Judge before whom such felon shall be convicted for such burglary or felony, certifying the conviction of such felon for the said offence or offences, and also that such felon was taken by the person claiming the said reward.

Judge to decide as to reward in case of dispute.
Ib.

SEC. 35. In case any dispute shall happen to arise between persons apprehending the said felon, touching their right and title to the said reward, the Judge certifying, as aforesaid, shall, in and by his said certificate, direct and appoint the said reward to be paid to and amongst the parties claiming the same in such share and proportions as to him shall seem just and reasonable.

Persons maimed or killed in endeavoring to apprehend felons entitled to an annuity.
1747, IX, 660, § 4; 1769, IV, 307, § 2.
Amended by Comm'rs.

SEC. 36. In case any Constable, watchman, or any other person having a wife or child living, shall happen to be killed, maimed or disabled from labor by any such burglar or house breaker in endeavoring to apprehend, or in making pursuit after him, such person, in case he shall be maimed or disabled, shall be entitled to, and shall yearly, and every year, receive out of the Treasury of this State, during the life or abode of such person in this State, the sum of thirty dollars; but if such person so maimed and disabled shall be a married man, then he shall be entitled to, and receive out of the public Treasury, during his life and abode in this State, the sum of forty-five dollars, yearly; and, in case such person shall happen to be killed, then the widow of such person shall thenceforth, during her widowhood and residence in this State, or the children of such person, (where there is no widow,) under the age of twelve years, until they attain the said age, shall be entitled to receive out of the public Treasury of this State the said sum of forty-five dollars, upon a certificate under the hands and seals of two of the Trial Justices of the County of such person being so killed, maimed or disabled from labor, which certificate the said Trial Justices, upon sufficient proof before them made, are immediately required to give, without fee or reward.

CHAPTER CXXX.

Of Forgery and Offences Against the Currency.

Sec.
1. Forgery and counterfeiting.
2. Issuing paper resembling bank notes.
3. On trials for counterfeiting notes of a bank—the bank to furnish witnesses.

Forgery and counterfeiting.

1845, XI, 341; (See 1736-7, III 470-1, §§ 3-7; 1783, IV, 513; 1801, V, 397, § 6.)

2 Bay, 262; 2 Brev., 2 9; 3 Brev, 552; 2 McC., 377; 3 McC., 442; 1 Hill, 100; 2 Bail., 37, 44; Harper, 59; 1 McM., 236; 2 Rich, 418; 8 Rich., 17.

Pressly's Law of Magistrates, 118; 3 Brev., 562.

Section 1. Whoever shall be convicted of falsely making, forging, or counterfeiting, or causing or procuring to be falsely made, forged, or counterfeited, or of willingly acting or assisting in the false making, forging, or counterfeiting, of any writing or instrument of writing, or of uttering or publishing as true any false, forged, or counterfeited writing, or instrument of writing, or of falsely making, forging, counterfeiting, altering, changing, defacing or erasing, or causing or procuring to be falsely made, forged, counterfeited, altered, changed, defaced or erased, any record or plat of land, or of willingly acting or assisting in any of the premises, with an intention to defraud any person, or of counterfeiting, or uttering, or attempting to pass, knowing it to be counterfeit, any of the following gold or silver coin, to wit: a Spanish milled dollar, Johannes, half ditto, quarter ditto, eighth ditto, Moidore, half ditto, quarter ditto, eighth ditto, French Crown, of four to the Louis d'or, English Crown, Pistereen, Spanish Doubloon, Double Pistole, Pistole, half ditto, English Guinea, half ditto, quarter ditto, French Guinea, German Piece, half ditto, Ducat; or of making or keeping in possession any stamp or mould for coining, shall be sentenced to be imprisoned not less than one year nor more than seven years, and also to pay such fine as may be judged expedient, at the discretion of the Judge who may try the case.

Issuing paper resembling bank notes.

1856, XII, 538.

Sec. 2. It shall be unlawful for any person to issue, utter or publish any printed or engraved paper bearing a resemblance to a bank note; and any person who shall violate the provisions of this Section shall, upon indictment and conviction thereof, be fined or imprisoned, at the discretion of the Court.

On trials for counterfeiting notes of a bank, the bank to furnish witnesses.

1828, VIII, 57; 1832, VIII, 66; 1833, VIII, 67. Amended by Comp'rs.

2 Bail., 37, 44, 565.

Sec. 3. When information shall be given to the President of any bank in South Carolina, by the Attorney General, or by any of the Solicitors of this State, that any person has been apprehended, and is to be tried in any County in this State for counterfeiting any of the notes of the said bank, or for passing such counterfeit note, knowing it to be false, or for stealing any note of the said bank, it shall be the duty of the said bank to cause its cashier, or some competent witness, to attend in person and give evidence on such trial, on pain of the forfeiture of one thousand dollars; for the use of the State, to be recovered by indictment.

CHAPTER CXXXI.

OF OFFENCES AGAINST PUBLIC JUSTICE.

SEC.
1. Perjury and subornation of perjury.
2. Procuring witnesses to commit perjury.
3. Imprisonment in place of fine. Person convicted incompetent to testify thereafter.
4. Disposition of forfeiture.
5. Who may punish, &c.
6. False swearing before persons authorized to administer oaths.
7. Additional punishment for perjury.
8. Clerk of Court or Trial Justice failing to pay over fines, how punished.
9. Giving or offering bribes to officers.
10. Acceptance of bribes by officers.
11. Corrupting jurors, arbitrators, &c.
12. Acceptance of bribes by jurors, arbitrators, &c.
13. Attempts to aid escapes from prison and rescuing prisoners.
14. Aiding in an escape from an officer.
15. Voluntary escape from prison.
16. Officers taking rewards for omitting their duty.
17. Betting upon elections.
18. Voting more than once at elections.
19. Bribery at elections.
20. Offering to procure voters by bribery.
21. Bribery to procure office.
22. Penalty for accepting bribes.
23. Informer free from arrest, &c.
24. Abusing voters, &c.
25. Place of trial; informer's share, &c.
26. Assault, intimidation or discharge from employment on account of political opinion.
27. Certain officers guilty of misconduct to be indicted.
28. Office declared vacant, on conviction.
29. Neglect of duty by Clerk of Court, &c.
30. Neglect of duty by said officers.

SECTION 1. Whoever, either by the subornation, unlawful procurement, sinister persuasion or means, of any others, or by his own act, consent or agreement, shall willfully and corruptly commit any manner of willful perjury, by his deposition in any of the Courts of this State, or being examined *ad perpetuam rei memoriam*, and being thereof duly convicted, shall be fined in the sum of one hundred dollars and shall suffer imprisonment by the space of six months, and the oath of such person shall not be received in any Court of record within this State.

Perjury and subornation of perjury.

5 Eliz., c. 9; 1712, 11, 487, § 6. 3 Brev., 284; 1 N. & McC., 516; 2 N. & McC., 118; 3 McC., 308; 4 McC., 159, 165; 1 Bail., 50; 2 Hill, 290, 611; 3 Strob., 148; 10 Rich., 165.

SEC. 2. Whoever shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful means whatsoever, to commit any willful and corrupt perjury, in any matter or cause whatsoever, in suit and variance, by any writ, action, complaint or information, in any wise touching or concerning any lands, tenements or hereditaments, goods, chattels, debts or damages, in any of the Courts of this State, or shall unlawfully and corruptly procure or suborn any witness or witnesses, which shall be sworn to testify *in perpetuam rei memoriam*, shall be fined in the sum of two hundred dollars.

Procuring witnesses, to commit perjury.

Ib., § 3.

SEC. 3. Whoever being convicted, as provided by Sections one and two of this Chapter, shall not have goods or chattels, lands or tenements, to the value of two hundred dollars, shall for his said offence suffer imprisonment by the space of one half year, and thenceforth shall not be received as a witness in any Court of record within this State.

Imprisonment in place of fine.

Person convicted incompetent to testify thereafter.

Ib., § 4, 5.

SEC. 4. The one moiety of the fine imposed by the preceding Sections of this Chapter shall be for the State, and the other moiety to such person or persons as shall be grieved, hindered or molested by reason of the offence or offences before mentioned, that will sue for the same by action in any Court of competent jurisdiction.

Disposition of forfeiture.

Ib., 488, § 8.

Who may punish, &c.
Ib., § 9.

SEC. 5. The Judge of every Court wherein any such suit shall be brought, and whereupon any such perjury is or shall happen to be committed, shall have full power and authority to inquire of all and every the defaults and offences perpetrated, committed or done contrary to the provisions of Sections 1, 2 and 3 of this Chapter, by inquisition, presentment, or bill, before them exhibited, or otherwise lawfully to hear and determine the same, and thereupon to give judgment, award process and execution of the same.

False swearing before persons authorized to administer oaths.
1833, VI, 185. 10 Rich., 52.

SEC. 6. Whoever shall, willfully and knowingly, swear falsely in taking any oath required by law, and administered by any person directed or permitted by law to administer such oath, shall be deemed guilty of perjury, and, on conviction, incur the pains and penalties of that offence.

Additional punishment for perjury.
1737-7, III, 470, § 4.
Amended by Comm'rs.

SEC. 7. Besides the punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the Court or Judge before whom any person shall be convicted of willful and corrupt perjury, or subornation of perjury, to order and send such person to the State Penitentiary, there to be kept to hard labor for any term or time not exceeding the term of seven years.

Clerk of Court or Trial Justice failing to pay over fines—how punished
1871, XIV, 653, § 3; (See Chap. XXII, § 38; Chap. XXV, § 44.)

SEC. 8. If any Clerk of the Circuit Court of General Sessions, County Sheriff, or Trial Justice, shall neglect or refuse to immediately pay over, as required, any and all fines and penalties collected by them in any criminal cause or proceeding, he shall, on conviction thereof, be subject to a fine of not less than one hundred, nor more than one thousand dollars, and imprisonment not less than three, nor more than six months, and shall be dismissed from office, and disqualified from holding any office of trust and profit under this State.

Giving or offering bribes to officers.
1869, XIV, 308, § 1.

SEC. 9. Whoever corruptly gives, offers, or promises to any executive, legislative or judicial officer, after his election or appointment, either before or after he is qualified, or has taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be pending, or may by law come or be brought before him in his official capacity, shall be punished by imprisonment in the State Penitentiary at hard labor, not exceeding five years, or by fine not exceeding three thousand dollars, and imprisonment in jail not exceeding one year.

Acceptance of bribes by officers.
Ib., § 2.

SEC. 10. Every executive, legislative or judicial officer who corruptly accepts a gift or gratuity, or a promise to make a gift or to do an act beneficial to such an officer, under an agreement, or with an understanding that his vote, opinion or judgment shall be given in any particular manner, or on a particular side of any question, cause or proceeding which is or may be by law brought before him in his official capacity, or that, in such capacity, he shall make any particular nomination or appointment, shall forfeit his office, be forever disqualified

to hold any public office, trust or appointment under the laws of this State, and be punished by imprisonment in the State Penitentiary at hard labor, not exceeding ten years, or by fine, not exceeding five thousand dollars, and by imprisonment in jail not exceeding two years.

Corrupting jurors, arbitrators, &c. Ib., 309, § 3.

SEC. 11. Whoever corrupts, or attempts to corrupt, any juror, arbitrator, umpire or referee, by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion, or influence the decision of such juror, arbitrator, umpire or referee in relation to any cause or matter pending in the Court, or before an inquest, or for the decision of which such arbitrator, umpire or referee has been chosen or appointed, shall be punished by imprisonment in the State Penitentiary at hard labor, not exceeding five years, or by fine, not exceeding one thousand dollars, and imprisonment in jail, not exceeding one year.

Acceptance of bribes by jurors, arbitrators, &c. Ib., § 4.

SEC. 12. If any person summoned as a juror, or chosen or appointed as an arbitrator, umpire or referee, corruptly receives any gift or gratuity whatever from a party to a suit, cause or proceeding, for the trial or decision of which such juror has been summoned, or for the hearing or determination of which such arbitrator, umpire or referee has been chosen or appointed, he shall be punished by imprisonment in the State Penitentiary at hard labor, not exceeding five years, or by fine, not exceeding one thousand dollars, and imprisonment in jail, not exceeding one year.

Attempts to aid escapes from prison, and rescuing prisoners. Ib., § 5.

SEC. 13. Whoever conveys into a Jail, House of Correction, State Penitentiary, House of Reformation, or other like place of confinement, any disguise, instrument, tool, weapon or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained; or by any means whatever aids or assists such prisoner in his endeavor to escape therefrom, whether such escape is effected or attempted or not, and whoever forcibly rescues any prisoner held in custody upon any conviction or charge of offence, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding seven years; or, if the person whose escape or rescue was effected or intended was charged with an offence not capital, nor punishable by imprisonment, then by imprisonment in the State Penitentiary at hard labor, not exceeding two years, or by fine, not exceeding five hundred dollars.

Aiding in an escape from an officer. Ib., § 6.

SEC. 14. Whoever aids or assists a prisoner in escaping, or attempting to escape, from an officer or person who has the lawful custody of such prisoner, shall be punished by imprisonment in the State Penitentiary at hard labor, not exceeding two years, or by fine, not exceeding five hundred dollars.

Voluntary escape from prison.
Ib., § 7.

SEC. 15. If a jailer or other officer willfully suffers a prisoner in his custody, upon conviction or on any criminal charge, to escape, he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to, or would be liable to suffer upon conviction of the crime or offence wherewith he stood charged.

Officers taking rewards for omitting their duty.
Ib., § 8.

SEC. 16. If a Sheriff, Constable or other officer authorized to serve legal process, receives from a defendant, or any other person, any money or other valuable thing as a consideration, reward or inducement, for omitting or delaying to arrest a defendant, or to carry him before a Trial Justice, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by fine not exceeding three hundred dollars.

Betting upon elections.
1850, XII, 72, 1.

SEC. 17. Whoever shall make any bet or wager of money, or wager of any other thing of value, or shall have any share or part in any bet or wager of money, or wager of any other thing of value, upon any election in this State, shall be deemed guilty of a misdemeanor, and, upon conviction in any Court of Sessions in this State, shall be fined in a sum not exceeding five hundred dollars, and be imprisoned not exceeding one month; one-half of the fine to go to the informer, and the other half to the use of the State.

Voting more than once at elections.
1857, XII, 731, § 2. See Chap. VII, § 3.

SEC. 18. If any person qualified by the Constitution and laws of this State to vote at any election for members of the Congress of the United States, members of the Legislature of this State, Sheriff, Clerk, Judge of Probate, or other County officer, Mayor and Aldermen of any city, Intendant and Wardens of any incorporated town, officers of the militia or volunteer organizations of the State, or at any other elections now required, or that shall hereafter be required, by law, to be held within this State, shall vote more than once at such election for the same office, such person so voting more than once shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined and imprisoned, at the discretion of the Judge before whom the case shall be tried.

Bribery at elections.
Ib., § 3.

SEC. 19. If at any election hereafter held within this State for members of the Congress of the United States, members of the Legislature of this State, Sheriff, Clerk, Judge of Probate, or other County officer, Mayor and Aldermen of any city, Intendant and Wardens of any incorporated town, officers of the militia or volunteer organizations of the State, or at any other election now required, or that shall hereafter be required, by law to be held within this State, any person shall, by the payment, delivery or promise of money, or other article of value, procure another to vote for or against any particular candidate or measure, the person so promising, and the person so voting, shall each be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offence, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and imprisoned for any term of time not less

First offence.

than one month nor more than six months; and, for the second offence, shall be fined in any sum not less than five hundred dollars, nor more than five thousand dollars, and imprisoned for any term of time not less than three months nor more than twelve months.

Second offence.

SEC. 20. If at any election, as in the eighteenth Section of this Chapter is mentioned, any person shall offer or propose to procure another, by the payment, delivery or promise of money, or other article of value, to vote for or against any particular candidate or measure, or shall offer or propose, for the consideration of money or other article of value paid, delivered or promised, to vote for or against any particular candidate or measure, such person so offering to procure or vote shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined and imprisoned at the discretion of the Court.

Offering to procure voters by bribery.
Ib., § 4.

SEC. 21. If any person shall, directly or indirectly, offer, give, or engage to pay any sum of money or other valuable consideration to another, in order to induce such other person to procure for him, by his interest, influence, or any other means whatsoever, any office or place of trust within this State, or shall offer, give, promise or bestow any reward by meat, drink, or otherwise, for the aforesaid purpose, and be thereof convicted, he shall forfeit the sum of not less than one nor more than five hundred dollars, and suffer imprisonment for a term not exceeding six months.

Bribery to procure office.
18 4, VI, 244, § 2.

SEC. 22. If any person shall receive of another any sum of money, or reward of meat, drink or otherwise valuable consideration, for procuring or assisting to procure, any office or place of trust in this State, for any other person whatever, and be thereof convicted, he shall forfeit the sum of not more than one hundred dollars, and suffer imprisonment at the discretion of the Court having cognizance of the same; and if such offender be in any office, he shall, on the conviction, be disabled from holding the same.

Penalty for accepting bribes.
Ib., § 3.

SEC. 23. If either of the parties offending as aforesaid, shall give information, upon oath, against the other offending party, and shall duly prosecute such information, such informer shall be free from the penalties aforesaid.

Informer free from arrest, &c.
Ib., § 4.

SEC. 24. If any person shall, at any of the elections in any city, town, ward, or polling precinct, threaten, maltreat or abuse any voter, with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall suffer fine and imprisonment at the discretion of the Court.

Abusing voters, &c.
Ib., 5.

SEC. 25. All offences against the provisions of Sections 21, 22, 23 and 24 of this Chapter, shall be heard, tried and determined before the Court of General Sessions, and the pecuniary penalties accruing thereby shall go, one-third to the informer, and the remainder to the State.

Place of trial; informer's share, &c.
Ib., § 6.

Assault, intimidation or discharge from employment on account of political opinion.
1871, XIV, 560, § 1.

SEC. 26. Whoever shall assault or intimidate any citizen because of political opinions or the exercise of political rights and privileges guaranteed to every citizen of the United States by the Constitution and laws hereof, or by the Constitution and laws of this State, or, for such reason, discharge such citizen from employmett or occupation, or eject such citizen from rented house or land or other property, such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, be fined not less than fifty or more than one thousand dollars, or be imprisoned not less than three months or more than one year, or both, at the discretion of the Court.

Certain officers guilty of misconduct to be indicted.
1829, VI, 391. 7 Rich., 398.

SEC. 27. If any public officer hereafter to be elected or appointed, whose authority is limited to a single election or judicial district, shall be guilty of any official misconduct, habitual negligence, habitual drunkenness, corruption, fraud or oppression, he shall be liable to indictment, in which the privilege of traverse shall not be allowed; and, upon conviction thereof, shall be fined not exceeding one thousand dollars, and imprisoned not exceeding one year.

Office declared vacant.
Ib., § 2.

SEC. 28. It shall be the duty of the presiding Judge, before whom such officer shall be tried, to cause a certified copy of the indictment to be immediately transmitted to the Governor, who shall, upon receipt thereof, declare, by proclamation, his office vacant, and the same shall be filled as in case of the death or resignation of the incumbent.

Neglect of duty by Clerk of Court, &c.
1857, VI, 577, § 1.

SEC. 29. If any Clerk of the Court of Common Pleas and General Sessions, or Sheriff, or Judge of Probate, or Register of Mesne Conveyances, in this State, shall willfully fail or neglect to discharge all the duties and perform all the services which are required of him by law, in addition to his liability to the party aggrieved, he shall be liable to be indicted as for a misdemeanor, and, upon conviction thereof, shall be fined, at the discretion of the Court, not exceeding five hundred dollars.

Neglect of duty by said officers.
Ib., § 3.

SEC. 30. If any of the said officers shall be reported by a Circuit Solicitor as having willfully failed or neglected to discharge any of the duties, or to perform any of the services, appertaining to his office, which are required of him by law, it shall be the duty of the Court to order a bill of indictment to be preferred against such delinquent officer.

CHAPTER CXXXII.

OF OFFENCES AGAINST THE PUBLIC PEACE.

SEC.
1. Banding or conspiring against persons, &c.
2. If other crime be committed, offenders to be punished for it.
3. Sheriffs, Constables, &c., to execute warrants, &c. Penalty for failure so to do. May call out *posse comitatus*, &c.
4. Penalty for hindering officers from executing warrants, &c. Penalty for rescuing offenders
5. Persons injured may prosecute the county for recovery of damages. County to pay damages.
6. If buildings be destroyed by mob or riot, owners to be indemnified.
7. When such damages cannot be recovered. Officers failing to protect persons liable for damages.
8. Persons injured may sue participators in mob or riot.
9. County Commissioners may prosecute offenders.
10. Sheriffs, Constables, &c., specially required to enforce preceding provisions.
11. Jurisdiction of Circuit Courts under this Chapter.
12. Governor may call out militia to enforce the laws, &c.
13. Proclamation for insurgents to disperse.
14. Militia subject to Articles of War.
15. Penalties for disobedience of orders.
16. Governor to take possession of telegraphs and railroads where public safety so requires.
17. Governor may employ and organize a sufficient force.
18. Governor may suspend *habeas corpus* when public safety requires it.

Banding or conspiring together against persons, &c.

187, XIV, 560, § 2.

SECTION 1. If any two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to injure, oppress, or violate the person or property of any citizen, because of his political opinion or his expression or exercise of the same, or shall attempt, by any means, measures or acts, to hinder, prevent or obstruct any citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States, or by the Constitution and laws of this State, such persons shall be deemed guilty of a felony, and, on conviction thereof, be fined not less than one hundred, or more than two thousand dollars, or be imprisoned not less than six months, or more than three years, or both, at the discretion of the Court; and shall thereafter be ineligible to, and disabled from, holding any office of honor, trust or profit in this State.

If other crime be committed, offenders to be punished for it.

Ib., § 3.

SEC. 2. If, in violating any of the provisions of Sections 1 and 4 of this Chapter, any other crime, misdemeanor or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor and felony by the existing laws of this State.

Sheriffs, Constables, &c., to execute warrants, &c.

Penalty for failure so to do.

SEC. 3. It shall be the duty of all Sheriffs, Constables, and other officers who may be specially empowered, to obey and execute all warrants and other processes issued under the provisions of Sections 1 to 7, inclusive, of this Chapter, to them directed; and should any Sheriff, Constable, or other officer specially empowered, refuse to receive such warrant or other process, when tendered to him; or neglect or refuse to execute the same, he shall, on conviction thereof, be fined in the sum of five hundred dollars, to the use of the citizens deprived of the rights secured by the provisions of this Chapter, or be imprisoned in the County jail, in the discretion of the Court. And the better to enable the Sheriffs, Constables, and other officers specially empowered, to execute all such warrants and other processes as may

May call out *posse comitatus*, &c.
Ib., § 6.

be directed to them, they shall have authority to summon and call to their aid the by-standers or *posse comitatus* of the proper County; and all persons refusing to obey the summons or call of the officers thus empowered shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished. And such warrants and other processes shall run and be executed by said officers anywhere within the Circuit or County in which they are issued.

Penalty for hindering officers from executing warrants, &c.

Penalty for rescuing offenders.
Ib., 561, § 7.

SEC. 4. Any person who shall hinder, prevent or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of Sections 1 to 10, inclusive, of this Chapter, in arresting any person for whose apprehension such warrant or other process may have been issued, or shall rescue, or attempt to rescue, such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, or shall aid, abet or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or shall harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for either of said offences, be subject to a fine of not less than fifty, nor more than one thousand dollars, or imprisonment of not less than three months, nor more than one year, or both, at the discretion of the Court having jurisdiction.

Persons injured may prosecute the County for recovery of damages.

County to pay damages.
Ib., § 8.

SEC. 5. Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States, or by the Constitution and laws of this State, or shall be injured in his person or property because of his exercise of the same, may claim and prosecute the County in which the offence shall be committed for any damages he shall sustain thereby; and the said County shall be responsible for the payment of such damages as the Court may award, which shall be paid by the County Treasurer of such County on a warrant drawn by the County Commissioners thereof; which warrant shall be drawn by the County Commissioners as soon as a certified copy of the judgment roll is delivered to them for file in their office.

If buildings be destroyed by mob or riot owners to be indemnified.
Ib., § 9.

SEC. 6. In all cases where any dwelling-house, building, or any property, real or personal, shall be destroyed in consequence of any mob or riot, it shall be lawful for the person or persons owning or interested in such property to bring suits against the County in which such property was situated and being, for the recovery of such damages as he or they may have sustained by reason of the destruction thereof; and the amount which shall be recovered in said action shall be paid in the manner provided by Section 5 of this Chapter.

When such damages cannot be recovered.

SEC. 7. No person or persons shall be entitled to the recovery of such damages if it shall appear that the destruction of his or their property was caused by his or their illegal conduct, nor unless it shall appear that he or they, upon knowledge had of the intention or attempt to destroy his or their property, or to collect a mob for that purpose, and, sufficient time intervening, gave notice thereof to a Constable, Sheriff, or Trial Justice of the County in which such property was situated and being; and it shall be the duty of such Constable, Sheriff, or Trial Justice, upon receipt of such notice, to take all legal means necessary for the protection of such property as attacked, or threatened to be attacked; and if such Constable, Sheriff, or Trial Justice, upon receipt of such notice, or upon knowledge of such intention or attempt to destroy such property, in any wise received, shall neglect or refuse to perform his duty in the premises, he or they so neglecting or refusing shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office, and, on conviction thereof, shall forfeit his commission.

Officers failing to protect persons liable for damages.

Ib., § 10.

Persons injured may sue participators in mob or riot.

Ib., 562, § 11.

SEC. 8. Nothing in the foregoing Sections of this Chapter shall be construed to prevent the person or persons whose property is injured or destroyed from having and maintaining his or their action against all and every person and persons engaged or participating in said mob or riot, to recover full damages for any injury sustained: *Provided, however*, That no damages shall be recovered by the party injured against any of the said rioters for the same injury for which compensation shall be made by the County.

County Commissioners may prosecute offenders.

Ib., § 12.

SEC. 9. It shall be lawful for the County Commissioners of the County against which damages shall be recovered under the provisions of this Chapter to bring suit or suits, in the name of the County, against any and all persons engaged, or in any manner participating in said mob or riot, and against any Constable, Sheriff, Trial Justice, or other officer charged with the maintenance of the public peace, who may be liable, by neglect of duty, to the provisions of this Chapter, for the recovery of all damages, costs and expenses incurred by said County, and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

Sheriffs, Constables, &c., specially required to enforce preceding provisions.

Ib., 560, § 4.

SEC. 10. Sheriffs, Constables and other officers in the several Circuits or Counties, vested with powers of arresting, imprisoning and bailing offenders against the laws of this State, are hereby specially authorized and required to institute proceedings against all and every person and persons who shall violate the provisions of the preceding Sections of this Chapter, and cause him and them to be arrested, imprisoned, or bailed, as the case may require, for a trial before such Court as shall have jurisdiction of the offence.

Jurisdiction of Circuit Courts under this Chapter.
Ib., § 5.

SEC. 11. The Circuit Courts of this State, within their respective Circuits, in the Counties of which the Circuits are respectively composed, shall have cognizance of all offences committed against the provisions of Sections 1 to 9, inclusive, of this Chapter.

Governor may call out militia to enforce the laws, &c.
1868, XIV, 85, § 1.

SEC. 12. Whenever, by reason of unlawful obstructions, combinations or assemblages of persons, or rebellion against the authority of the government of the State, it shall become impracticable, in the judgment of the Governor of the State, to enforce, by the ordinary course of judicial proceedings, the laws of the State within any County or Counties of the State, it shall be lawful for the Governor of the State to call forth the militia of any or all the Counties in the State, and employ such parts thereof as he may deem necessary to enforce the faithful execution of the laws, or to suppress such rebellion.

Proclamation for insurgents to disperse.
Ib., 86, § 2.

SEC. 13. Whenever, in the judgment of the Governor, it may be necessary to use the military force hereby directed to be employed and called forth, the Governor shall forthwith, by proclamation, command such insurgents to disperse, and retire peaceably to their respective abodes within a limited time.

Militia subject to articles of war.

Length of service.

Pay, &c.
Ib., § 3.

SEC. 14. The militia so called into the service of the State shall be subject to the same rules and articles of war as troops of the United States, and be continued in the service of the State until discharged by proclamation by the Governor: *Provided*, That such continuance in service shall not extend beyond sixty days after the commencement of the next regular session of the General Assembly, unless the General Assembly shall expressly provide therefor: *Provided, further*, That the militia so called into the service of the State shall, during their time of service, be entitled to the same pay, rations and allowances for clothing as are or may be established by law for the army of the United States.

Penalties for disobedience of orders.
Ib., § 4.

SEC. 15. Every officer, non-commissioned officer, or private of the militia, who shall fail to obey the orders of the Governor of the State in any of the cases before recited, shall forfeit a sum not exceeding one year's pay, and not less than one month's pay, to be determined by a court-martial; and such officer shall be liable to be cashiered by sentence of court-martial, and be incapacitated from holding a commission in the militia, for a term not exceeding twelve months, at the discretion of the Court; and such non-commissioned officer and private shall be liable to imprisonment by a like sentence, on failure of the payment of the fines adjudged against them, for one calendar month for every twenty-five dollars of such fine.

Governor to take possession of telegraphs and railroads when public safety so requires.
Ib., § 5.

SEC. 16. The Governor of the State, when, in his judgment, the public safety may require it, is hereby authorized to take possession of any or all of the telegraph lines in the State, their offices and appurtenances; to take possession of any or all railroad lines in the State, their rolling stock, their offices, shops, buildings, and all their appendages and appurtenances; to prescribe rules and regulations for the holding, using

and maintaining of the aforesaid telegraph and railroad lines, in the manner most conducive to the interest and safety of the Government; to place under military control all the officers, agents and employees belonging to the telegraph and railroad lines thus taken possession of, so that they shall be considered a part of the military establishment of the State, subject to all the restrictions imposed by the rules and articles of war.

Governor may employ and organize a sufficient force, &c.
Ib., § 6.

SEC. 17. The Governor is authorized to employ as many persons as he may deem necessary and proper for the suppression of such insurrection, rebellion or resistance to the laws; and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

Governor may suspend *habeas corpus* when public safety requires it.
Ib., § 7

SEC. 18. If, during any insurrection, rebellion, or any unlawful obstruction of the laws, as set forth in the twelfth Section of this Chapter, the Governor of the State, in his judgment, shall deem the public safety requires it, he is authorized to suspend the privilege of the writ of *habeas corpus* in any case throughout the State or any part thereof; and whenever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of *habeas corpus*, to return the body of any person or persons detained by him by authority of the Governor; but upon the certificate, under oath, of the officer having charge of any one so detained, that such person is detained by him as a prisoner under the authority of the Governor, further proceeding under the writ of *habeas corpus* shall be suspended by the Judge or Court having issued the said writ, so long as said suspension by the Governor shall remain in force and said rebellion continue.

CHAPTER CXXXIII.

OF OFFENCES AGAINST CHASTITY, MORALITY AND DECENCY.

SEC.
1. Abducting a maid under sixteen years of age
2. Abducting, deflowering or contracting matrimony with a woman under sixteen years of age.
3. Bigamy.
4. Buggery.
5. Fine for keeping gaming-tables open on the Sabbath on Sullivan's Island.
6. Cursing and swearing.
7. Forfeitures, how collected
8. Penalty for not executing Sections 6 and 7.
9. Time for prosecuting upon, &c.
10. Convictions to be registered.

Abducting a maid under 16 years of age.
4 & 5 P. & M., c. 8; 1712, II, 485, § 3.
2 Mod., 128; 1 Bail., 144.

SECTION 1. Whoever, above the age of fourteen years, shall unlawfully take or convey, or cause to be taken or conveyed, any maid or woman-child unmarried, being within the age of sixteen years, out of or from the possession and against the will of the father or mother of such child, or out of or from the possession and against the will of such person or persons as then shall happen to have, by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman-child, shall, on conviction, suffer imprisonment for the space of two years, or else shall pay such fine as shall be adjudged by the Court.

Abducting, deflowering, or contracting matrimony with a woman under 16 years of age.
Ib., § 4.
2 Bay, 418.

SEC. 2. Whoever shall so take away, or cause to be taken away as aforesaid, and deflower any such maid or woman-child as aforesaid, or shall, against the will or unknowing of or to the father of any such maid or woman-child, if the father be in life, or against the will or unknowing of the mother of any such maid or woman-child, (having the custody or governance of such child, if the father be dead,) by secret letters, messages, or otherwise, contract matrimony with any such maid or woman-child, shall, on conviction, suffer imprisonment for five years, or else shall pay such fine as shall be adjudged by the Court; one moiety of which fine shall be for the State, and the other moiety to the parties grieved.

Bigamy.
1 J. 1, c. 11; 1712, II, 508.
Amended by Com'rs.
1 Hale's P. C., 692; 2 Bay, 476; 4 McC., 256; 2 Bail., 293.

SEC 3. Whoever, being married, and whose husband or wife has not remained continually for seven years beyond the sea, or continually absented himself or herself, the one from the other, for the space of seven years together, the one of them not knowing the other to be living within that time, or who were not married before the age of consent, or where neither husband nor wife is under sentence of imprisonment for life, or whose marriage has not been annulled by decree of a competent tribunal having jurisdiction both of the cause and the parties, shall marry another person, the former husband or wife being alive, shall, on conviction, be punished by imprisonment in the penitentiary for five years, or imprisonment in the jail for three years, and by a fine of not less than five hundred dollars.

Buggery.
25 Hen. 8, c. 6; II, 465.
Amended by Com'rs.

SEC. 4. Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be deemed guilty of felony, and shall be imprisoned in the penitentiary for five years and shall pay a fine of not less than five hundred dollars, or both, at the discretion of the Court.

Fine for keeping gaming tables open on Sabbath on Sullivan's Island.
1799, V, 350, § 3.

SEC. 5. Whoever shall keep, or suffer to be kept, any gaming table, or permit any game or games to be played in his, her or their houses, on Sullivan's Island, on the Sabbath day, such person or persons, on conviction thereof before any Court having jurisdiction, shall be fined in the sum of fifty dollars, to be sued for on behalf of, and to be recovered for, the use of the State.

Cursing and swearing
6 & 7 W. 3, c. 11; 1712, II, 538, § 1.

SEC. 6. Whoever shall profanely swear or curse in the presence of any Trial Justice, or of the Mayor or other head officer for any city or town corporate, where such offence is or shall be committed, or that shall be thereof convicted by oath of one witness, or by the confession of the party offending, before any Trial Justice of the County, or Mayor, or other chief officer of such city or town corporate where the said offence shall be committed, shall forfeit and pay to the use of the poor of the County where such offence or offences shall be committed the respective sums herein mentioned, that is to say: every servant, day laborer and common seaman, twenty-five cents; and every

other person, fifty cents; and in case any of the persons aforesaid shall, after conviction, offend a second time, such person shall forfeit and pay double, and, if a third time, treble the sum respectively by him or her to be paid for the first offence.

Forfeitures, how collected. Ib., § 2.

SEC. 7. Upon neglect or refusal of payment of the said forfeiture, any Trial Justice of the County, or Mayor, or other head officer, of any city or town corporate where the said offence shall be committed, is hereby authorized and required to direct and send his warrant to any Constable of the County where the offence shall be committed, or where the offender shall inhabit, thereby commanding him to levy, by distress and sale of the goods of the offender, the sum so forfeited, for the use of the poor of the County, as aforesaid.

Penalty for not executing Sections 6 and 7. Ib., § 3.

SEC. 8. If any Trial Justice or Chief Magistrate shall willfully and wittingly omit the performance of his duty in the execution of Sections six and seven of this Chapter, he shall forfeit the sum of twenty-five dollars, the one moiety to the use of the informer, to be recovered by action.

Time for prosecuting upon said sections. Ib., § 5.

SEC. 9. No person shall be prosecuted or troubled for any offence against the provisions of Section six of this Chapter, unless the same be proved or prosecuted within ten days next after the offence committed.

Convictions to be registered. Ib., § 7.

SEC. 10. The Trial Justices, or Mayor, or other head officer, shall register, in a book to be kept for that purpose, all the convictions made before him upon the sixth Section of this Chapter, and the time of making thereof, and for what offence, and shall certify the same to the Court of General Sessions for the County where the offences are committed, to be kept there upon record by the Clerk, to be seen without fee or reward.

CHAPTER CXXXIV.

OF OFFENCES AGAINST THE PUBLIC HEALTH.

SEC. 1. Penalties for practicing medicine, &c., without proper qualifications.

Penalties for practicing medicine, &c., without proper qualifications. 1817, VI, 63, §§ 1, 2; 1869, XIV, 197, § 2.

SECTION 1. Any person living in this State, or any person coming into this State, who shall practice medicine, in any of its departments, or perform, or attempt to perform, any surgical operations, upon any person within the limits of this State, in violation of Section 1 of Chapter XXXII of this Act, shall, upon conviction thereof, be fined not less than fifty, nor more than one hundred dollars, for such offence; and, upon conviction for a second violation, shall, in addition to the above fines, be imprisoned in the County jail of the County in which said offence shall have been committed, for the term of ninety days: *Provided*, That nothing herein contained shall in any way be construed to apply to any person practicing dentistry, or females practicing midwifery.

CHAPTER CXXXV.

Of Offences Against Public Policy.

SEC.
1. Penalty for setting up lotteries.
2. Penalty for adventuring in lotteries.
3. Penalty for selling lottery tickets.
4. Penalty for peddling ardent spirits.
5. Penalty for bringing convicts into the State.
6. Penalties, how recovered.

Penalty for setting up lotteries.
1762, IV, 180, § 1.
Amended by Com'rs.

SECTION 1. Whoever shall publicly or privately, erect, set up, or expose to be played, drawn or thrown at, or shall cause, or procure to be erected, set up, exposed to be played, drawn or thrown at, any lottery, under the denomination of sales of houses, lands, plate, jewels, goods, wares, merchandises, or other things whatsoever, or for money, or by any undertaking, whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures or tickets, or who shall make, write, print, or publish, or cause to be made, written or published, any scheme or proposal for any of the purposes aforesaid, and shall be convicted of any of the offences aforesaid, on any indictment for the same, at the Court of General Sessions, shall forfeit the sum of one thousand dollars, one-third part thereof to and for the use of this State, one-third part thereof to the informer, and the other third part thereof to the poor of the County where the offence shall be committed; and shall, also, for every such offence, be committed by the said Court to the common jail, for the space of twelve months.

Penalty for adventuring in lotteries.
Ib., § 2.
Amended by Com'rs.

SEC. 2. Whoever shall be adventurer in, or shall pay any moneys or other consideration, or shall any way contribute unto, or upon account of any such sales or lotteries, shall forfeit, for every such offence, the sum of one hundred dollars, to be recovered, with costs of suit, by action or indictment, in any Court of competent jurisdiction in this State, one moiety thereof to and for the use of the State, and the other moiety thereof to the person or persons who shall inform and sue for the same.

Penalty for selling lottery tickets.
1846, XI, 68, § 1.

SEC. 3. It shall be unlawful to offer for sale any lottery tickets, or to open or keep any office for the sale of lottery tickets; and if any person shall offend against any of the provisions of this Section, he shall, on conviction thereof, forfeit and pay to the State a sum not exceeding ten thousand dollars; and it shall be the duty of the County Treasurer of the County to prosecute the offender.

Penalty for peddling ardent spirits.
1870, XIV, 380 §§ 1, 2.

SEC. 4. Whoever shall peddle ardent spirits in any County in this State shall be deemed guilty of a misdemeanor, and subject to pay a fine of not more than five hundred dollars, or imprisonment for not more than one year, or both such fine and imprisonment, in the discretion of the Court; and everybody so convicted shall forfeit all such spirits, the same to vest in the County; and if the fine be paid, or the spirits forfeited, one-half thereof shall be paid to the informer.

SEC. 5. Every master or person having charge of any ship or other vessel who shall bring into this State any convicted malefactor or person ordered for transportation, for any crime or offence whatever, from any foreign country, State, or Dominion, the ship or vessel bringing such persons shall be obliged to leave the port in which she shall arrive, within ten days after arrival, and shall not be permitted to take or receive on board any lading whatsoever, on pain of forfeiture of such ship or vessel; and if any master shall land, or suffer to be landed, or dispose of the time or service of such person, for the payment of his passage, or any other claim or demand, such master of vessel, or other person having the charge thereof, shall forfeit and pay for every convicted malefactor or person ordered for transportation, which such master shall bring into this State, and offer to dispose of, on indenture, or other contract for service, the sum of twenty-five hundred dollars.

Penalty for bringing convicts into State.
1788, V, 87, § 1.

SEC. 6. The fines and forfeitures inflicted by the preceding Section shall and may be recovered by indictment, to which any person offending shall be compelled to give security to abide the issue of the suit; one-half of which forfeiture shall go to the prosecutor who shall inform and sue for the same, and the other half for the benefit of the State.

Penalties, how recovered.
Ib., 88, § 5.

CHAPTER CXXXVI.

OF OFFENCES AGAINST CIVIL RIGHTS.

SEC.
1. Discriminating on account of color, &c., by common carriers.
2. Penalty for discrimination.
3. Prosecution of cases, &c.
4. Penalty for assigning special quarters by common carriers.
5. Penalty for refusing admission or adequate accommodation at theatres, &c.
6. Punishment of aider and abettor.
7. Who to be deemed aiders and abettors.
8. Corporations violating this Chapter to forfeit charters, &c.
9. Burden of proof on the defendant party.
10. Solicitors to prosecute. Penalty for failure to prosecute. The Attorney General to prosecute Solicitor.

SECTION 1. It shall not be lawful for any common carriers, or any party or parties engaged in any business, calling or pursuit, for the carrying on of which a license or charter is required by any law, municipal, State or Federal, or by any public rule or regulations, to discriminate between persons on account of race, color or previous condition, who shall make lawful application for the benefit of such business, calling or pursuit.

Discrimination on account of color, &c., by common carriers.
1869, XIV, 179, § 1; 1870, XIV, 388, § 1.

SEC. 2. Any party so discriminating shall be considered as having violated this Chapter, and, upon conviction, shall be punished by a fine of not less than two hundred dollars, or imprisonment for not less than six months in the penitentiary.

Penalty for discrimination.
Ib., § 2.

SEC. 3. Every case arising under the first Section, and not provided for specifically in some succeeding Section, shall be prosecuted and decided in accordance with the general provisions of this Chapter.

Prosecution of cases, &c.
1870, XIV, 388, § 8.

Penalty for assigning special quarters by common carriers.
Ib., 386, § 2.

SEC. 4. Whoever, being a common carrier, under any public license, charter, rule or regulation, shall, by himself or another, willfully assign any special quarters or accommodations whatever to any passenger or person whom such common carrier may have undertaken to carry, or who shall, under any pretence, deny or refuse to any person lawfully applying for the same, accommodation equal in every respect to that furnished by him to any other person, for like compensation or reward, in a like case, having no regard to the persons *per se* who may be applicants therefor, shall, on conviction, be punished by a fine of one thousand dollars, and also by confinement at hard labor in the penitentiary for five years; and if such fine be not paid the convict shall be confined in the penitentiary at hard labor, as aforesaid, for not less than six years.

Penalty for refusing admission or adequate accommodation at theatres, &c.
Ib., 387, § 3.

SEC. 5. Whoever, conducting or managing any theatre, or other place of amusement or recreation, by whatever name the same may be recognized, or however called or known, if such theatre or place be licensed or chartered, or be under any public rule or regulation whatever, shall willfully make any discrimination against any person lawfully applying for accommodation in, or admission to, any such theatre or place, on account of the race, color, or previous condition of the applicant, or shall refuse or deny to any person lawfully applying therefor, accommodation equal in every respect to that furnished at such place for a like reward to any other person, on account of race, color or previous condition of the applicant therefor, shall, on conviction, be punished by a fine of one thousand dollars, and also imprisonment at hard labor in the penitentiary for three years.

Punishment of aider and abettor.
Ib., § 4.

SEC. 6. Whoever, not being the principal offender under Sections 4 and 5 of this Chapter, shall aid or abet in or about the commission of any of the offences therein mentioned, shall, on conviction, be punished by imprisonment at hard labor in the penitentiary for three years, and no such convict shall ever vote or hold any office under any law of this State.

Who to be deemed aiders and abettors.
Ib., § 5.

SEC. 7. Every commander, conductor, manager, or other person superintending or having charge of any vessel, or vehicle, or any theatre, or other place mentioned in this Chapter, and, as such, having authority and power to order and manage affairs in or about the same, who shall suffer or permit to occur any violation of this Chapter, which such commander, conductor, or manager, or person so superintending, and having such charge as aforesaid, can possibly prevent, shall be considered an aider and abettor in the commission of any such offence, and, on conviction, shall be subject to the penalties provided in Section 6 of this Chapter.

Corporations violating this Chapter to forfeit charters, &c.
Ib., § 6.

SEC. 8. Every corporation or party whatever, holding any charter or license under the authority of this State, who shall violate any of the provisions of this Chapter, shall thereupon be deemed and held to have committed an abuse of the franchises conferred by or under every such

charter or license, and, on conviction, shall forfeit every such charter or license; and any party or parties who, having so forfeited any such charter or license as aforesaid, shall, nevertheless, presume to use or operate under or by virtue of the same, as well as every person who shall be found aiding any such party or parties thereabout, shall, on conviction, be punished by a fine of one thousand dollars, or imprisonment in the penitentiary for three years.

Burden of proof on the defendant party.

Ib., § 7.

SEC. 9. In every trial for violating any provisions of this Chapter, when it shall be charged that any person has been refused or denied admission to, or due accommodation in, any of the places in this Chapter mentioned, on account of the race, color or previous condition of the applicant, and such applicant is a colored or black person, the burden shall be on the defendant party, or parties, so having refused or denied such admission or accommodation, to show that the same was not done in violation of this Chapter.

Solicitors to prosecute.

Penalty for failure to prosecute.

The Attorney General to prosecute Solicitor.

Ib., § 8, § 9.

SEC. 10. The several Solicitors of this State are hereby specially charged to take care that this Chapter be promptly and rigorously enforced; and every such Solicitor who shall fail in any respect in the performance of his duty under the requirement in this Section contained, shall be deemed to have committed a misfeasance in office, and, on conviction, shall forfeit his office, and be incapable of holding his office for five years, and shall, also, pay a fine of five hundred dollars, and, in every case in which any such Solicitor shall fail in his duty, as herein prescribed, the Attorney General shall make the most effective prosecution possible against him on behalf of the State; and neither any Solicitor nor the Attorney General shall settle or enter a *nol. pros.* in any case arising under this Chapter, except by the consent of the Court.

CHAPTER CXXXVII.

Of Felonies, Accessories and Abettors.

SEC.
1. Persons accessory before fact punished as principals.
2. Accessories before fact, when and how tried.
3. Where to be tried.
4. Accessories after the fact, how, when and where tried.
5. Punishment for felony when not specially provided for.

Persons accessory before fact punished as principals.

New. Suggested by Com'rs. (See 4 & 5 P & M., c. 4; 1712, II, 484. Pressley's Law of Magistrates, 17, 18; 1 Bouvier's Law Dict., Vol. 1, 44.

SECTION 1. Whoever aids in the commission of a felony, or is accessory thereto before the fact, by counselling, hiring, or otherwise procuring, such felony to be committed, shall be punished in the manner prescribed for the punishment of the principal felon.

Accessories before fact, when and how tried.

Ib. 4 Strob., 103, 1.8, note.

SEC. 2. Whoever counsels, hires, or otherwise procures, a felony to be committed, may be indicted and convicted as an accessory before the fact, either with the principal felon or after his conviction, or may be indicted and convicted of a substantive felony, whether the principal felon has or has not been convicted, or is or is not amenable to justice, and, in the last mentioned case, may be punished in the same manner as if convicted of being an accessory before the fact.

Where to be tried.

Ib. (See Chapter CXXVIII. §§ 19, 20, 21.)

SEC. 3. A person charged with the offence mentioned in the preceding Section may be indicted, tried and punished in the same Court and County where the principal felon might be indicted and tried, although the offence of counselling, hiring or procuring the commission of such felony is committed on the high seas, or on land either within or without the limits of this State.

Accessories after the fact, how, when and where tried.

Ib. (See 1 Ann St. 2, c. 9; 1712, II, 543, § 1.)

SEC. 4. Whoever becomes an accessory to a felony after the fact, may be indicted, convicted and punished (whether the principal felon has or has not been previously convicted, or is or is not amenable to justice,) by any Court having jurisdiction to try the principal felon, and either in the County where such person became an accessory or in the County where the principal felony was committed.

Punishment for felony when not specially provided for

1865, XIII, 406, § 9; 1869, XIV, 175, § 4.

SEC. 5. Where no special punishment is provided for a felony, it shall, at the discretion of the Court, be by one or more of the following modes, to wit: Confinement in a penitentiary, or in a workhouse or penal farm, (when such institutions shall exist,) for a period not less than three months nor more than ten years, with such imposition of hard labor and solitary confinement as may be directed.

TITLE II.

OF PROCEEDINGS IN CRIMINAL CASES.

CHAPTER CXXXVIII. *Of Arrests, Examination, Commitment and Bail.*
CXXXIX. *Of Indictments, Prosecutions and Proceedings before Trials.*
CXL. *Of Trials.*
CXLI. *Of Appeals and New Trials.*
CXLII. *Of Judgment and Execution.*
CXLIII. *Of Inquests on Dead Bodies.*

CHAPTER CXXXVIII.

OF ARRESTS, EXAMINATION, COMMITMENT AND BAIL.

SEC.
1. Who may arrest a felon, and where.
2. When citizens may arrest, and the means to be used.
3. No civil process to be executed on any person attending musters.
4. Affrayers, rioters, &c., may be compelled to give surety for the peace.
5. All persons may be bailed by Trial Justices except those charged with capital crimes.
6. Scale by which recognizances shall be regulated. Recognizances of prosecutors and witnesses.
7. Trial Justices may arrest witnesses and commit them to jail, if they refuse to recognize.
8. Trial Justices to return papers to Clerk ten days before court.

SECTION 1. Upon view of a felony committed, or upon certain information that a felony has been committed, any person may arrest the felon and take him to a Judge or Trial Justice, to be dealt with according to law.

Who may arrest a felon, and where.
1866, XIII, 406, § 11.

SEC. 2. It shall be lawful for any citizen to arrest any person in the night time, by such efficient means as the darkness and the probability of his escape render necessary, even if his life should be thereby taken, in cases where he has committed a felony, or has entered a dwelling house with evil intent, or has broken, or is breaking into, an out-house, with a view to plunder, or has in his possession stolen property, or, being under circumstances which raise just suspicion of his design to steal or to commit some felony, flees when he is hailed.

When citizens may arrest, and the means to be used.
Ib., 12.

SEC. 3. No civil officer shall execute any process arresting and confining the person, or requiring bail or surety, (unless for treason, felony or breach of the peace,) on any person engaged in the military service required by the laws of this State, going to or returning from the same, under the penalty of twenty-five dollars, and the service of any such process shall be void.

No civil process to be executed on any person attending musters.
1794, VIII, 489, § 16; 1839, XI, 41, § 12; 1841, XI, 210, § 161.
1 Bail., 646.

Affrayers, rioters, &c., may be compelled to give surety for the peace.
1870, XIV, 403, § 3.
Altered.

SEC. 4. All affrayers, rioters, disturbers and breakers of the peace, and all who go armed offensively, to the terror of the people, and such as utter menaces or threatening speeches, or otherwise dangerous and disorderly persons, and all persons arrested for assaults and batteries, shall be examined by the Trial Justice before whom they are brought, and may be tried before him, and, if found guilty, may be required to find sureties of the peace, and be punished, or, when the offence is of a high and aggravated nature, they may be committed or bound over for trial before the Court of General Sessions, either by fine or forfeiture not exceeding one hundred dollars, or imprisonment in the jail or work house not exceeding thirty days.

All persons may be bailed by Trial Justices except those charged with capital crimes.
1839, XI, 22, § 6.

SEC. 5. Trial Justices may admit to bail any person charged with any offence the punishment of which is other than death; and if any person under lawful arrest, on a charge regularly made and not bailable, be brought before a Trial Justice, he shall commit the prisoner to jail; but, if the offence charged be bailable, the Trial Justice shall take recognizance, with sufficient surety, if the same be offered; in default whereof, such party shall be committed to prison, unless it shall clearly appear, upon examination, that the charge is not founded in probability; in which case, the party may be discharged.

SEC. 6. Recognizances entered into before a Trial Justice shall be according to the following scale:

Scale by which recognizances shall be regulated.

1. If the offence charged be punishable with fine and imprisonment, or either, the recognizance of the accused shall not be for less than two hundred dollars; and if the fine be specified or limited by statute, it shall not be for less than the greatest extent of such fine;

Recognizances of prosecutor and witnesses.
Ib., § 7.

2. The recognizance of any prosecutor or witness, in case of misdemeanor, shall not be for less than one hundred dollars; and, in case of capital felony, for not less than five hundred dollars; though, in all cases, the Trial Justice shall cause the same to be in such larger amount as the circumstances may seem to require.

Trial Justices may arrest witnesses and commit them to jail if they refuse to recognize.
Ib., § 8.
Amended by Com'rs.

SEC. 7. Upon information made of the materiality of any witness within the State to support any accusation made, or where the materiality of such witness shall be within the knowledge of any Trial Justice, he shall issue his warrant requiring such witness to appear before him or the next Trial Justice, to enter into recognizance, with good security, if deemed proper; which warrant shall authorize the arrest and detention of any such witness in any County in the State; and on being brought before such Trial Justice, and refusing to enter into recognizance, such witness may be committed by the said Trial Justice to the jail of the County, there to remain until he shall be regularly discharged or shall enter into recognizance as required by this Chapter.

Trial Justices to return papers to Clerk 10 days before Court.
1836, VI, 552, § 1.
1839, XI, 24, § 11.

SEC. 8. All Trial Justices before whom recognizances of witnesses, defendant or prosecutor, for their respective appearances at any of the Courts of Sessions for this State, shall be taken, or before whom any information or other paper returnable to the same shall be made, shall

lodge the said recognizances, information or other papers, in the respective Clerks' offices of the Courts to which they are returnable, at least ten days before the meeting of the said Courts respectively.

CHAPTER CXXXIX.

Of Indictments, Prosecutions and Proceedings Before Trials.

Sec.
1. Grand jurors, when and how returned, and term of service.
2. Who to be grand jurors and who jurors for trials.
3. Deficiency in number of, how supplied.
4. Persons indicted for capital offences to have a copy of their indictment.
5. May have counsel.
6. Court may assign counsel.
7. Traverse of an indictment not a continuance.
8. Juries to be empannelled, &c, in each case.
9. How deficiency in jurors to be supplied.
10. In felonies prisoner may have process to compel attendance of witnesses.

Section 1. The Clerk of the Court of General Sessions in each County, not less than fifteen days before the commencement of the first term of the Court in each year, shall issue writs of *venire facias*, in each County, for eighteen grand jurors, to be returned to that Court, who shall be held to serve at each term thereof throughout the year, and until another grand jury is empannelled in their stead.

Grand jurors, when and how returned and term of service.
1871, XIV, 694, § 33.

Sec. 2. Grand jurors shall be drawn, summoned and returned in the same manner as jurors for trials, and, when drawn at the same time as jurors for trials, the persons whose names are first drawn, to the number required, shall be returned as grand jurors, and those afterwards drawn, to the number required, shall be jurors for trials.

Who to be grand jurors and who jurors for trials.
Ib., § 34.

Sec. 3. In case of deficiency of grand jurors in any Court, writs of *venire facias* may be issued to the Sheriff of the County in which said Court is held, to return forthwith such further number of grand jurors from the bystanders as may be required.

Deficiency in number of, how supplied.
Ib., § 35.

Sec. 4. Whoever shall be accused and indicted for any capital offence, whatsoever, shall have a true copy of the whole indictment, but not the names of the witnesses, delivered to him, three days, at least, before he shall be tried for the same, whereby to enable him to advise with counsel thereupon, his attorney or attorneys, agent or agents, or any of them requiring the same, and paying the officer his usual fees for the copy of every such indictment.

Persons indicted for capital offences, to have a copy of their indictment.
1731, III, 285, § 43.
2 Bay., 150; 2 N. & McC., 261; 10 Rich., 257.

Sec. 5. Every such person so accused and indicted, arraigned or tried, for any capital offence, shall be received and admitted to make his full defence by counsel learned in the law, and to make any proof that he can by lawful witness or witnesses, who shall then be upon oath, for his just defence in that behalf.

May have counsel.
Ib.
Const., Art. I, § 13.

Court may assign counsel
Ib.

SEC. 6. In case any person so accused or indicted shall desire counsel, the Court before whom such person shall be tried is authorized and required, immediately upon his request, to assign to such person such and so many counsel, not exceeding two, as the person shall desire, to whom such counsel shall have free access, at all seasonable times, either before, at or after the said trial; any law or usage to the contrary notwithstanding.

Traverse of an indictment not a continuance.
1871, XIV, 544.

SEC. 7. A traverse of an indictment shall not, in any Court of criminal jurisdiction in this State, of itself, operate to continue the case.

Juries to be empanneled, &c, in each case.
Ib., 692, § 19.
Miller's Compilation, p. 155.

SEC. 8. In empannelling juries in criminal cases, the jurors shall be called, sworn and empannelled anew for the trial of each case, according to the established practice, and their foreman shall be appointed by the Court or by the jury when they retire to consider their verdict.

How deficiency in jurors to be supplied
Ib., § 20.

SEC. 9. When, by reason of challenge, or otherwise, a sufficient number of jurors, duly drawn and summoned, cannot be obtained for the trial of any cause, civil or criminal, the Court shall cause jurors to be returned from the bystanders, or from the County at large, to complete the panel: *Provided*, That there are on the jury not less than seven of the jurors who were originally drawn and summoned, as before provided.

In felonies, prisoner may have process to compel attendance of witnesses.
1731, III, 286, § 44; 1839, XI, 23, § 8.

SEC. 10. The accused shall, in felonies, and in no other cases, have the like process to compel the attendance of any witness in their behalf as is granted or permitted on the part of the State.

CHAPTER CXL.

OF TRIALS.

SEC.
1. No grand juror to be on trial jury.
2. Payment of taxes not a cause of challenge.
3. Peremptory challenges on trial of certain crimes
4. Prisoners' witnesses to be sworn, &c.
5. Defendant may testify in criminal cases.
6. Persons not required to criminate themselves, &c. Privilege of husband and wife.
7. Judge may send persons *non compos mentis* to Asylum.

No grand juror to be on trial jury.
1731, III, 279, § 19
Amended by Comm'rs.

SECTION 1. No member of the grand jury which has found an indictment, shall be put upon the jury for the trial thereof.

Payment of taxes not a cause of challenge.
1871, XIV, 693, § 13

SEC. 2. In indictments and penal actions for the recovery of a sum of money, or other thing forfeited, it shall not be a cause of challenge to a juror, that he is liable to pay taxes in any County, city or town, which may be benefitted by such recovery.

SEC. 3. Any person who shall hereafter be arraigned for the crime of murder, manslaughter, burglary, arson or rape, or grand larceny, shall be entitled to all the incidents of an arraignment, and to peremptory challenges, not exceeding twenty, and the State, in such cases, shall be entitled to peremptory challenges, not exceeding two, in the manner heretofore prescribed by law. And any person who shall be indicted for any crime or offence, other than those above enumerated, shall have the right to peremptory challenges of five, and the State, in such cases, shall be entitled to peremptory challenges, not exceeding two.

Peremptory challenges on trial of certain crimes.

Ib., 64, 37; 1 Edw. I, 1712, II, 549; 1841, XI, 154.
2 N. & McC., 553.

SEC. 4. Every person who shall be produced or appear as a witness on the behalf of the prisoner, upon any trial for treason or felony, before he be admitted to depose, or give any manner of evidence, shall first take an oath to depose the truth, the whole truth, and nothing but the truth, in such manner as the witnesses for the State are by law obliged to do; and, if convicted of any willful perjury in such evidence, shall suffer all the punishments, penalties, forfeitures, and disabilites which, by law, may be inflicted upon persons convicted of willful perjury.

Prisoners' witnesses to be sworn, &c.

1 Ann. St. 2, c. 9; 1712, II, 543. § 3.
Miller's Compilation, pp. 157, 159.

SEC. 5. In the trial of all criminal cases, the defendant shall be allowed to testify (if he desires to do so, and not otherwise,) as to the facts and circumstances of the case.

Defendant may testify in criminal cases

1866, XIII, 378, § 2.

SEC. 6. No person shall be required to answer any question tending to criminate himself, nor shall husband or wife be required to disclose any communication made to each other during their coverture, nor shall testimony given under the preceding Section be afterwards used against him in any other case, civil or criminal, except upon an indictment for perjury, founded on that testimony.

Persons not required to criminate themselves, &c. Privilege of husband and wife

Ib. § 3.

SEC. 7. Any Judge of the Circuit Court is authorized to send to the Lunatic Asylum every person charged with the commission of any criminal offence, who shall, upon the trial before him, prove to be *non compos mentis;* and the said Judge is authorized to make all necessary orders to carry into effect this power.

Judge may send persons *non compotes mentis* to Asylum.

1822, VI, 3[illegible], § 7.

CHAPTER CXLI.

Of Appeals and New Trials.

Sec.
1. Appeal from Trial Justices' Courts.
2. Circuit Courts may grant new trials.

Appeal from Trial Justices' Courts.

1870, XIV, 405, § 12.

Section 1. Every person convicted before a Trial Justice of any offence whatever, and sentenced, may appeal from the sentence to the next term of the Court of General Sessions for the County. The appellant shall be committed to abide the sentence of said Court, until he recognize to the State in such reasonable sum, and with such sureties, as the Court requires, with condition to appear at the Court appealed to, and at any subsequent term to which the case is continued, if not previously surrendered and discharged, and so, from term to term, until the final decree, sentence, or order of the Court thereon; and to abide such final sentence, order or decree, and not depart without leave; and, in the meantime, to keep the peace, and be of good behavior.

Circuit Courts may grant new trials.

1868, XIV, 136, § 1.
2 Bay., 150; 1 Brev., 159; 2 N. & McC., 461, 441; 4 McC., 254; 1 Strob., 352; Cheves, 75; 10 Rich., 257; 14 Rich., 113, 169, 203, 209, 210.

Sec. 2. All the Circuit Courts of this State shall have power to grant new trials in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the Courts of law of the United States.

CHAPTER CXLII.

Of Judgment and Execution.

Sec.
1. Sentence where no punishment is provided.
2. Prisoners to pay their own costs if able, &c.
3. Court may order Sheriff, &c., to sell prisoners' goods to pay costs, &c.
4. Appraisement of such goods, how made, &c.
5. Sales of goods, &c., by prisoner, void.
6. Prisoner acquitted, freed from costs.
7. Recognizances to be in the name of the State.
8. Proceedings in case of forfeiture of recognizance.
9. Execution to issue for sale of estate of offender, &c.
10. If amount not made, offender may be committed to jail, &c.
11. Court may remit forfeiture in certain cases.

Sentence where no punishment is provided.

New. Suggested by Comm'rs. (See 1866, XIII, 405, § 9, 10.)

Section 1. In cases of legal conviction, where no punishment is provided by statute, the Court shall award such sentence as is conformable to the common usage and practice in this State, according to the nature of the offence and not repugnant to the Constitution.

Prisoners to pay their own costs if able, &c.

1744, III, 638, § 1.

Sec. 2. Every person who shall be committed to any common jail in this State, by any Trial Justice, for any offence or misdemanor, having means or ability to do the same, shall bear his own reasonable charges for conveying or sending him to the said jail, and the charges also of such as shall be appointed to, and shall, guard him to the said jail.

Sec. 3. The Court of General Sessions before whom any criminal shall be tried shall, upon conviction of the offender, by order, authorize and direct the Sheriff or any Constable or Constables of the County where such person shall be dwelling or inhabit, and from whence he shall be committed as aforesaid, or where he shall have any goods within the County, to sell so much of the goods and chattels of the person so to be committed as shall satisfy and pay the charges of conveying and sending him to the said jail as aforesaid.

Court may order Sheriff, &c., to sell prisoners' goods to pay costs, &c. Ib.

Sec. 4. The appraisement of the goods and chattels of such person so convicted shall be made by three freeholders, inhabitants of the said County where such goods or chattels shall be, (the said freeholders being first sworn to make a just and true appraisement of the same); and the Constable shall return the sum so by him levied to the County Treasurer, and the overplus of the money which shall be made on such levy shall be delivered to the party.

Appraisement of such goods, how made, &c. Ib.

Sec. 5. Any sale of the goods and chattels made by the person committed, as provided by Section 2 of this Chapter, between the time of the commitment and the time of conviction, in order to avoid the payment of the aforesaid charges, is hereby declared to be null and void.

Sales of goods, &c., by prisoner void. Ib.

Sec. 6. When a prisoner shall be discharged, by reason of the non-attendance of the prosecutor, or on account of a bill presented against him being rejected by the grand jury, or by reason of an acquittal by the petit jury, such prisoner shall not be bound or liable to pay any charges which may have been incurred in his apprehension, detention or prosecution.

Prisoner acquitted, freed from costs. 1791, VII, 265, § 16

Sec. 7. In all recognizances by any person for keeping the peace, or good behavior, or for appearing as a party, surety or witness, at any Court of criminal jurisdiction within the State, the sum or sums of money in which any such person shall be bound, shall be made payable to the State; and every such recognizance shall be good and effectual in law, provided it be signed by every party thereto, and also acknowledged in the presence of a Judge or Trial Justice, who shall certify such acknowledgment, otherwise such recognizance shall be void.

Recognizances to be in the name of the State. 1787, V, 13, § 1. 3 Hill, 95.

Sec. 8. Whenever such recognizance shall become forfeited by non-compliance with the condition thereof, the Attorney General, or Solicitor, or other person acting for him, shall, without delay, issue a notice to summon every party bound in such forfeited recognizance, to be and appear at the next ensuing Court of Sessions, to show cause, if any he has, why judgment should not be confirmed against him; and, if any person so bound fail to appear, or, appearing, shall not give such reason for not performing the condition of such recognizance as the Court shall deem sufficient, then the judgment on such recognizance shall be confirmed.

Proceedings in case of forfeiture of recognizance. Ib. Pressly's Law of Magistrates, p. 438; Miller's Comp., pp. 179, 180.

Execution to issue for sale of estate of offender, &c.
Ib.

SEC. 9. In every case where any such recognizance shall be adjudged so forfeited, or where any fine shall be imposed by, or recovered for, the use of the State, in any Court, or before a Trial Justice, if the party incurring such fine or forfeiture shall fail to pay down the same, with the costs of prosecution, then a writ, in the nature of an execution, shall issue, by virtue of which the Sheriff, or his deputy, shall sell (in the same manner as property is sold under execution in civil cases) so much of such offender's estate, real or personal, as may be necessary to satisfy the fine or forfeiture, and also the costs of prosecution, and also the reasonable charges of taking, keeping and selling such property, returning the overplus, if any, to the offender, together with a bill of the fine or forfeiture, with costs and charges, if he require it.

If amount not made offender may be committed to jail, &c.
Ib.

SEC. 10. If the Sheriff, or his deputy, return on oath that such offender refused to pay, or has not any property, or not sufficient whereon to levy, then a writ of *capias ad satisfaciendum* shall issue, whereby he shall be committed to the common jail, until the forfeiture, costs and charges, shall be satisfied—entitled, however, to the privilege of insolvent debtors.

Court may remit forfeiture in certain cases.
Ib., 14, § 2.

SEC. 11. If any person shall forfeit a recognizance from ignorance or unavoidable impediment, and not from willful default, the Court of Sessions may, on affidavit, stating the excuse or cause thereof, remit the whole or any part of the forfeiture, as may be deemed reasonable.

CHAPTER CXLIII.

OF INQUESTS ON DEAD BODIES.

SEC.
1. Mode of summoning a jury. Form of warrant.
2. Any Constable or Sheriff to execute warrant.
3. Persons subject to jury duty.
4. Number of jurors, and oath.
5. Coroner to charge jury.
6. Inquiry in case of suicide.
7. Proclamation.
8. Coroner has power to issue warrants, examine, bind over, commit, &c.
9. Power to adjourn the jury, bind jurors, &c.
10. Absent jurors, how supplied, &c.
11. Oath of witnesses.
12. Coroner to take down testimony in writing, and bind over or commit witnesses.
13. Form of verdict.
14. Finding in case of death by means unknown.
15. Finding in case of death by self-murder.
16. Finding in case of death by mischance.
17. Finding in case of death by the hands of another.
18. Form of conclusion of inquisition.
19. Warrant in case of murder.
20. Commitment.
21. Sheriff, &c., to keep persons committed.
22. To bind over party killing by mischance and witnesses.
23. Penalty for burying a body without inquiry.
24. Body to be taken up on suspicion of violent death.
25. Record of body long dead, &c.
26. Liability for burial without inquest, &c.

Mode of summoning a Jury.
1839, XI, 7, § 9. 2 N. & McC., 451.

SECTION 1. When the Coroner shall be informed of, or shall see, the dead body of any person, supposed to have come to a violent and untimely death, found lying within his County, he shall make out his warrant, directed to all or any of the Constables of his County, or to the Sheriff of his County, requiring them, or any of them, forthwith to summon a jury of fourteen men of the County, to appear before him at the time and place specified in the warrant, which warrant shall be in this form:

"THE STATE OF SOUTH CAROLINA:

To the Sheriff, or to any Constable or Constables, as the case may be,) of ———————— County, Greeting:

Form of warrant.

These are to require you, immediately on receipt and sight hereof, to summon and warn, verbally or otherwise, fourteen men of the said County, to be and appear before me, the Coroner of said County, at ——— within the said County, between the hours of —— o'clock, on the ——— day of ———, then and there to inquire, upon the view of a body of a certain person there lying dead, how he came to his death. Fail not herein, as you will answer the contrary at your peril.

Given under my hand and seal, at ——— this ——— day of ———, A. D. ———, by me.

A. B., [L. S.]
Coroner for ——— County."

Any Constable or Sheriff to execute warrant.
Ib., § 10.

SEC. 2. Any Constable or Sheriff, to whom such warrant shall come, shall forthwith execute the same, and repair unto the place at the time therein mentioned, and make return of the warrant, with his proceedings thereon, to the Coroner that granted it; and every Constable or Sheriff, failing to perform the duty by such warrant required of him, or failing to return the same, as aforesaid, shall forfeit and pay the sum of twenty dollars, if without reasonable excuse, to be recovered by action; and each and every person summoned and warned, as aforesaid, to be a juror, and failing to appear and act as such juror, shall, also, forfeit and pay the sum of twenty dollars, if without reasonable excuse, to be recovered by action.

Persons subject to jury duty.
Ib., § 11; altered.

SEC. 3. All persons, subject to jury duty in the Circuit Courts, shall be liable to serve as jurors on an inquest on a dead body found within their County.

Number of Jurors and oath.
Ib., 73, § 12.

SEC. 4. Of the jurors summoned and appearing, the Coroner shall swear twelve or more, and administer to the foreman appointed by him an oath, in the form following: "You shall inquire and true presentment make, on behalf of the State of South Carolina, in what manner A. B., here lying dead, came to his death, and you shall deliver a true verdict threon, according to such evidence as shall be given, and according to your knowledge: So help you God;" and to the others he shall administer an oath in this form: "The oath which your foreman has taken on his part, you shall well and truly observe and keep on your part: So help you God."

Coroner to charge jury.
Ib., § 13.

SEC. 5. The jury so sworn shall be charged by the Coroner to declare, upon oath, whether the deceased came to his death by mischance and accident, or by felony; and, if by felony, whether by his own or another's; and, if by mischance, whether by the act of God or of man; and, if he died of another's felony, who were principals, and who accessories, who threatened him of life, or murder, and with what instrument he was struck or wounded; and, if by mischance or accident, by the act of God or man, whether by hurt, fall, stroke, drowning or otherwise.

And he shall also charge them to inquire of the persons that were present at the finding of the body, whether he were killed in the same place or elsewhere, and, if elsewhere, by whom or how he was there brought, and of all other circumstances.

Inquiry in case of suicide.
Ib., § 14.

SEC. 6. If the jury so charged find that the deceased came to his death by his own felony, they shall further inquire into the manner, names and instrument, and into all the circumstances of the death.

Proclamation
Ib., § 15.

SEC. 7. The jury being charged, they must stand together until proclamation be made for any that can give evidence to draw near, and they shall be heard.

Coroner has power to issue warrants, examine, bind over, commit, &c.
Ib., § 16.

SEC. 8. The Coroner shall have the power to issue a warrant or warrants, to summon witnesses, and examine before the jury any person present, whether summoned or not, concerning the death; and every person summoned or required to give evidence, and disregarding such summons, or refusing to testify, without such excuse as shall be lawful and sufficient, shall forfeit and pay the sum of twenty dollars, and shall be committed to jail by the Coroner, until the next Court of General Sessions, or until he testifies and is discharged by the Coroner; (the said forfeiture to be recovered by indictment;) and, in addition, shall be liable to be indicted at the next Court of General Sessions for the County, and, upon conviction, shall be fined and imprisoned at the discretion of the Court. And the Coroner shall bind such witness or witnesses so appearing, by recognizance, with good and sufficient surety, to appear at the next Court of General Sessions, to stand his trial; and the witnesses refusing to enter into such recognizance shall be forthwith committed to the jail of the County, by commitment, under the hand and seal of the Coroner, there to be kept until they enter into such recognizance, as before required.

Power to adjourn the Jury, bind Jurors, &c.
Ib., 74, § 17.

SEC. 9. A Coroner shall have power, if he deem it necessary, to adjoun the jury, either from day to day, or any other day and place, to receive evidence, binding the jurors severally by one recognizance, in such amount as he shall think fit, for their appearance; which recognizance may be estreated, as to any of the conusors for default, by the Court of General Sessions.

Absent Jurors, how supplied, &c.
Ib., § 18.

SEC. 10. If all or any of the jurors should fail to re-appear at the day and place to which they were adjourned, the Coroner shall issue his warrant to supply the places of the absent jury, or of so many of the jurors absent as may be necessary; and the jurors last summoned shall be sworn and charged as those first summoned were, and shall have the same powers, and be liable to the same penalties.

Oath of witnesses.
Ib., § 19.

SEC. 11. The witnesses examined upon the inquest shall be sworn as follows, by the Coroner, who is empowered to administer the oath, that is to say: "The evidence you shall give to this inquest concerning the death of A. B., here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God."

Coroner to take down testimony in writing, and bind over or commit witnesses.
Ib., § 20

SEC. 12. The testimony of all witnesses examined upon an inquest shall be taken down in writing by the Coroner, and signed by the witnesses, and if the testimony given tends to criminate any person as concerned in the death of the deceased, the Coroner shall bind over the witness who gave it, in recognizance, with sufficient surety, to appear at the next Court of General Sessions to be holden for the County, to give evidence concerning the death; and such witness, for refusing to enter into such recognizance, shall be committed by the Coroner to the jail of the County, by warrant under his hand and seal, there to be kept until the session of the Court, or until he shall enter into recognizance as required.

Form of verdict.
Ib., § 21.

SEC. 13. The jury having viewed the body, heard the evidence, and made inquiry into the cause and manner of the death, shall render their verdict thereon, in writing, to the Coroner, under their hand and seals, in the manner following, (which shall pass by indenture interchangeably between the Coroner and jury,) that is to say:

SOUTH CAROLINA, }
County. }

An inquisition indented, taken at ———, in ——— County, the ——— day of ———, A. D. ———, before A. B., Coroner, (or C. D., Trial Justice, acting as Coroner for said County,) upon view of the body of E. F., of ———, then and there being dead, by the oaths of (inserting the names of the jurors,) being a lawful jury of inquest, who, being charged and sworn to inquire, for the State of South Carolina, where and by what means the said E. F. came to his death, upon their oaths do say," &c.; (inserting how, where, at what time, and by what instrument the deceased was killed); and, if it shall appear that the deceased was willfully killed by another, the inquisition must be concluded in this form: "And so the jurors aforesaid, upon their oaths aforesaid, do say that the aforesaid J. K., in manner and form aforesaid, E F. then and there feloniously did kill, against the peace and dignity of the same State aforesaid."

Finding, in case of death by means unknown.
Ib., 75, § 22.

SEC. 14. If it shall appear that the deceased came to his death by means unknown to the jury, the inquisition shall conclude thus: "That the said E. F. was killed and murdered by some person or persons, (or, by some means,) to the jurors unknown, against the peace and dignity of the same State aforesaid."

Finding in case of death by self-murder.
Ib., § 23.

SEC. 15. If it appear that he died by self-murder, the inquisition shall conclude: "That the said E. F., in manner and form aforesaid, then and there, voluntarily and feloniously, himself did kill, against the peace and dignity of the same State aforesaid."

Finding in case of death by mischance.
Ib., § 24.

SEC. 16. If it appear that the deceased came to his death by mischance, the finding shall conclude: "That A. B., in manner and form aforesaid, came to his death by misfortune, or accident."

Finding in case of death by the hands of another.
Ib., § 25.

SEC. 17. If the proof shall be that the death was occasioned by the hands of another, the conclusion shall be: "That J. K. the said E. F., by misfortune, and contrary to his will, in manner and form aforesaid, did kill and slay."

Form of conclusion of inquisition.
Ib., § 26.

SEC. 18. After the conclusion above, according to the facts, the inquisition shall end in this form: "In witness whereof, I ————, Coroner aforesaid, and the jurors aforesaid, to this inquisition have interchangeably put our hands and seals, the day and year above mentioned.

A. B., [L. S.]
Coroner, ———— County.
C. D., [L. S.]
Foreman of Jury of Inquest.
E. F., &c., [L. S.]
Jurors."

Warrant in case of murder.
Ib., 76, § 27.

SEC. 19. If the finding of the inquest be willful killing by the hands or means of another, the Coroner shall forthwith issue his warrant, directed to the Sheriff, or to one or more Constables for the County, for all the persons implicated by said finding, which warrant shall be in this form:

"THE STATE OF SOUTH CAROLINA:
By A. B., Coroner, (or C. D., Trial Justice, acting as Coroner,) for ———— County: To —— ———, Sheriff of ———— County:

Whereas, by inquisition by me held, on (time and place inserted,) it was found that (here insert the finding of Jury.) These are, therefore, to command you forthwith to apprehend, (here insert the name or names of the accused,) and bring him, (or them,) before me, to be dealt with according to law.

Given under my hand and seal, this ——— day of ———, A. D. —
A. B., Coroner. [L. S.]
(or, C. D., Trial Justice, acting as Coroner.)

Commitment.
Ib., § 28.

SEC. 20. Upon the return of the said warrant, and the arrest of the party or parties, the Coroner shall proceed to commit him, her or them, by warrant, in the following form:

To the Sheriff, or Jailer, of ———— *County:*

You are hereby commanded and required to receive and keep in close confinement, in the jail of your County, (here insert the name or names of the party or parties,) charged before me by the finding of a jury of inquest, held on the ———— day of ————, at ————, with (here insert finding,) until he (she or they) shall be delivered by due course of law. Herein fail not.

Given under my hand and seal, this ———— day of ————, A. D. ————.

A. B., Coroner. [L. S.]
(or, C. D., Trial Justice, acting as Coroner.)

Sec. 21. All Sheriffs and Jailers are required to receive and keep securely all persons so committed by the Coroner.

Sheriff, &c., to keep persons committed.
Ib., § 29.

Sec. 22. If the finding of the inquest be that the deceased came to his death by mischance, by the hands of another, the Coroner shall bind in recognizance, with sufficient surety, the party against whom the verdict has been rendered, to appear at the next Court of General Sessions for the County, that the matter may be then and there inquired into; and the Coroner shall also bind over by recognizance, with good surety, all such material witnesses as were examined before the jury of inquest.

To bind over party killing by mischance, and witnesses
Ib., 77, § 30.

Sec. 23. If any person shall bury, or cause to be buried, the dead body of a person supposed to have come to a violent death, before notice to the Coroner to examine the body, and before inquiry is made into the manner and circumstances of the death, such person shall be liable to indictment therefor before the Court of General Sessions, and, upon conviction, shall be fined and imprisoned at the discretion of the presiding Judge. And the Coroner shall bind him in recognizance, with sufficient surety, to appear and stand his trial at the ensuing term of such Court.

Penalty for burying a body without inquiry, &c
Ib., § 34.

Sec. 24. If the Coroner shall know, or be informed, of the interment of the body of a person, supposed to have come to a violent death, he shall proceed to empannel a jury, as is hereinbefore directed, and order such body to be taken up, and shall conduct his examination into the cause and manner of the death, as though such body had not been buried.

Body to be taken up on suspicion of violent death.
Ib., § 35.

Sec. 25. If the body has been so long dead and buried, or so injured by improper keeping, as that the causes of the death cannot be ascertained upon the examination, the Coroner shall make record of the fact, stating its condition, by whom, and how long it had been kept or buried, the circumstances of the burial, and the identity (if discovered); which record shall be entered in his book, and returned, as any other inquisition, to the Clerk of the Court of General Sessions for the County.

Record of body long dead, &c.
Ib., § 36.

Sec. 26. The person burying, or directing the burial, of the dead body of one supposed to have come to a casual or violent death, without due notice to the Coroner, upon conviction thereof, by indictment, in the Court of Sessions, shall be liable to be fined and imprisoned, at the discretion of the Court. And the Coroner shall bind him in recognizance, with sufficient surety, to appear and stand his trial at the ensuing term of such Court.

Liability for burial without inquest, &c.
Ib., 78, § 37.

TITLE III.

OF PRISONS AND IMPRISONMENT.

CHAPTER CXLIV. *Of Jails and Prisoners.*
CXLV. *Of the State Penitentiary.*

CHAPTER CXLIV.

OF JAILS AND PRISONERS.

SEC.
1. Sheriff to have custody of jail, &c.
2. To appoint jailer: jailer to live at jail.
3. Appointment of jailer.
4. Prisoners committed by U. S. to be kept in custody.
5. Felons and debtors to be lodged apart.
6. Sheriff to keep prisoners committed by Coroner.
7. To set apart room for Coroner's prisoners.
8. Paupers, lunatics, &c., not to be imprisoned, but sent to the Asylum.
9. Jailer to report lunatics.
10. Sheriff to return names, &c., of prisoners to Court.
11. No discrimination in treatment of prisoners.
12. Penalty for discrimination.
13. Removal of prisoners on destruction of jail.
14. Sheriff may impress a guard, and call out *posse comitatus*.
15. To report condition of jail, &c.
16. County to furnish blankets and bedding for prisoners.
17. County Commissioners may make alterations in court house or jail.
18. Governor to appoint a physician to attend Charleston jail.
19. Compensation: accounts of others, for such services, not to be paid.
20. Buildings and fences not to be erected on jail or court house lots.
21. Penalty for injuring a court house or jail.

Sheriff to have custody of jail, &c.
1839, XI, 48, § 42; 4 Ed. 3, c. 10; 1712, II, 425.

SECTION 1. The Sheriff shall have the custody of the jail in his County, and if he appoint a jailer to keep it, the Sheriff shall be liable for him; and the Sheriff, or jailer, shall receive and safely keep in prison, any person delivered or committed to either of them, according to law, without taking anything for the receipt.

To appoint jailer. Jailer to live at jail.
1812, V, 672, § 2; 1839, XI, 48, § 41. 7 Rich., 348.

SEC. 2. Every Sheriff in this State, who does not live in the jail, shall employ a proper and discreet person as jailer, who shall live within the same, and who is hereby prohibited from using the house for any other purpose than that for which it was designed by law.

Appointment of jailer
1839, XI, 48, § 41.

SEC. 3. The Sheriff shall appoint such jailer in writing, a copy of which appointment shall be deposited in the office of the Clerk of the Circuit Court of the County wherein such jailer is appointed.

Prisoners committed by United States to be kept in custody.
1790, VII, 257, § 3; 1800, V, 379, § 1; 1839, XI, 47, § 38.

SEC. 4. The Sheriffs or jailers, in the several Counties of this State, shall keep in safe custody all such prisoners as may be committed to them under the authority of the United States, until such prisoners are discharged by due course of law of the United States, under the like penalties as in case of prisoners committed under the authority of this State, and upon the terms of the resolution of the Congress of the United States at their session, begun and holden on the fourth day of March, Anno Domini one thousand seven hundred and eighty-nine.

SEC. 5. Sheriffs and jailers shall keep prisoners for debt, in cases of fraud, in separate apartments of the jail, and the officer herein offending shall be liable to an action of the party aggrieved, and also to an indictment, and, on conviction, shall be punished as for a misdemeanor.

Felons and debtors to be lodged apart.
Ib., § 7.
Con., Art. I, § 20.
12 Rich., 224.

SEC. 6. All Sheriffs and jailers are required to receive, and keep securely, all persons committed by the Coroner.

Sheriff to keep prisoners committed by Coroner.
1839, XI, 76, § 29.

SEC. 7. The Sheriff of each County shall set apart in the jail a room for the confinement of such persons as may be exclusively in the custody of the Coroner, of which the Coroner shall have exclusive control.

To set apart room for Coroner's prisoners
Ib., 78, § 39; 1825, VI, 262.

SEC. 8. No pauper, lunatic, idiot or epileptic shall hereafter be confined for safe keeping in any jail; and, if any such person shall be imprisoned, under and by virtue of any legal process, it shall be the duty of the Sheriff, in whose custody he may be, to obtain his discharge as speedily as possible, and send him forthwith to the Asylum, according to law, at the expense of the County within whose limits he shall have gained a settlement.

Paupers, lunatics, &c., not to be imprisoned, but sent to the Asylum.
1839, XI, 51, § 48.

SEC. 9. Every Sheriff shall make a return to every Court of General Sessions of his County, on the first day of the term, of the name of every prisoner, and the time and cause of his or her confinement, whether civil or criminal.

Sheriff to return names, &c., of prisoners to Court
Ib., 52, § 5; 3 H. 7, c. 3; 1712, II, 433.

SEC. 10. It shall be the duty of the jailers of the several Counties of this State, at the sitting of each Court of Sessions, to report to the presiding Judge the names of the persons confined in jail, who are lunatics, idiots, or epileptics, with the cause of their detention.

Jailer to report lunatics.
1839, XI, 48, § 41; 1829, VI, 382, § 6.

SEC. 11. It shall be unlawful for Sheriffs or jailers to make any discrimination in the treatment of prisoners placed in their custody.

No discrimination in treatment of prisoners.
1868, XIV, 107, § 1.

SEC. 12. Every violation of the foregoing Section shall be a misdemeanor, and, upon conviction thereof, the party convicted shall be fined not less than twenty-five dollars, and imprisoned for not less than one month, nor more than twelve months.

Penalty for discrimination.
Ib., § 2.

SEC. 13. In all cases where any person shall be apprehended, or in confinement according to law, in any County in this State, wherein the jail is, or hereafter may be, destroyed by fire or other accident, he shall be committed to the jail nearest the one destroyed, for safe keeping; and the several jailers in this State, who now are, or hereafter may be, keepers of the jails nearest to those jails that may be destroyed as aforesaid, are authorized and required to receive and safely keep such person.

Removal of prisoners, on destruction of jail.
1872, V, 67, § 1; 1839, XI, 47, § 40.

Sheriff may impress a guard, and call out *posse comitatus*, &c.
Ib., 52, § 52.

SEC. 14. When any person accused of a capital offence shall be in custody, and the Sheriff, acting by himself or his regular deputy, shall have cause to suspect that such person may be rescued, or will probably effect his escape, the Sheriff may impress a sufficient guard for securing and keeping safely such prisoner, so long as it may be the duty of the Sheriff to keep said prisoner in jail, or his custody. And the Sheriff, by himself or his regular Deputy, shall have power to call out the *posse comitatus* to his assistance, whenever he is resisted, or has reasonable grounds to suspect and believe that such assistance will be necessary in the service or execution of process in any criminal case; and any person refusing to act as such guard, or to assist as one of the *posse comitatus* in the service or execution of such process, when required by the Sheriff, shall be liable to be indicted therefor, and, upon conviction, shall be fined and imprisoned at the discretion of the Court.

To report condition of jail, &c.
Ib., 48, § 42.

SEC. 15. Each Sheriff shall, annually, report to the County Commissioners the actual condition of the jail, the repairs which may be wanting, and their probable cost.

County to furnish blankets and bedding for prisoners.
Ib., 47, § 39; 1842, XI, 226; 1843, XII, 908, § 2; 1869, XIV, 274, § 2, ¶ 4.

SEC. 16. It shall be the duty of the County Commissioners in this State to furnish, at all times, blankets and such other bedding as shall be necessary for prisoners confined in jail in their respective Counties; and prisoners confined on a criminal charge shall be provided with at least two blankets in the winter season.

County Commissioners may make alterations in court houses and jails.
1841, XI, 156.

SEC. 17. The several Boards of County Commissioners are authorized and required to make any alterations and additions deemed advisable, or which may become necessary, to any court house or jail now erected, or hereafter to be built, in their several Counties.

Governor to appoint a physician to attend Charleston jail, &c.
1820, VI, 143.

SEC. 18. The Governor of this State, for the time being, is authorized and empowered in each and every year, to appoint some fit and proper person to attend as a physician and surgeon on the prisoners confined in the jail in Charleston County; his attendance to commence on the 10th day of January, and to continue for one year, and until another appointment shall be made as aforesaid.

Compensation. Accounts of others for such services not to be paid.
Ib., §§ 2, 3.

SEC. 19. The physician so appointed shall, for such service, including medicine and all other charges, receive, as a compensation, the sum of five hundred dollars per annum, and no more; and the account of no other physician, surgeon or apothecary, for attendance, operations, or medicines, on the said prisoners, shall be allowed or paid.

Buildings and fences not to be erected on jail or court house lots.

SEC. 20. If any person or persons shall erect, or cause to be erected, any dwelling house, out-house, or other building, or shall erect, or cause to be erected, any kind of fence, wall, or paling, of any kind, on any public lot or square, whereon the jails and court houses in the several Counties are erected, or who may hereafter hold, occupy or use any house, out-house, or other building erected on such square or lot, he, she or they shall, for every such offence, upon being thereof legally con-

victed by indictment, be fined in a sum not less than one hundred dollars, nor more than one thousand dollars: *Provided, nevertheless*, That the jailers of the respective Counties, who reside in the jails, shall not be subject to such penalty for erecting or using any such buildings or fences for their private accommodation.

Proviso. 1809, V, 507.

SEC. 21. If any person or persons shall willfully injure or destroy any part of any court house or jail in this State, or the enclosures of the same, or any part thereof, such person or persons shall be liable to be indicted for such offence, and, upon conviction, be fined or imprisoned at the discretion of the Court.

Penalty for injuring a court house or jail. 1827, VI, 321, § 6.

CHAPTER CXLV.

OF THE STATE PENITENTIARY.

SEC.
1. Who to be confined in Penitentiary.
2. Superintendent, how appointed. Term of office.
3. Bond.
4. Superintendent:
   1. To make regulations;
   2. Appoint Keeper, &c;
   3. Make purchases;
   4. Repairs;
   5. Sales, &c.;
   6. Take charge of buildings, &c.;
   7. Disburse funds;
   8. Keep books, &c.;
   9. Report annually to Directors;
   10. Report his accounts, &c.;
   11. Suppress disorders, &c.
5. May require aid to suppress disorders.
6. Penalty for refusal.
7. Compensation to those aiding, &c.
8. Superintendent guiltless, if injury, &c., be committed.
9. Powers of Keeper.
10. Prisoners sentenced by United States authority to be received.
11. Actions at law to be in name of Superintendent.
12. Governor to appoint Directors. Directors:
   1. To visit, &c;
   2. Examine into discipline, &c;
   3. Require reports;
   4. Make regulations;
   5. Investigations;
   6. Keep minutes;
   7. Prescribe food;
   8. Suspend or remove Superintendent;
   9. Make annual report to Governor.
13. Directors may appoint Chaplain. His compensation.
14. Salaries.
15. Pay of Directors.
16. Penalty for connivance at escape.
17. Transportation and clothing for discharged convicts.
18. Payment for transportation, &c.

SECTION 1. The Penitentiary at Columbia, in the County of Richland, shall be the general penitentiary and prison of the State, for the reformation, as well as the punishment, of all offenders, in which shall be securely confined, employed and governed, in the manner hereinafter directed, all offenders who shall have been convicted and sentenced, according to law, to the punishment of solitary imprisonment or confinement therein at hard labor.

Who to be confined in Penitentiary. 1868, XIV, 92, § 1.

SEC. 2. The State Penitentiary shall be under the direction and government of a Superintendent, to be appointed by the Governor, by and with the advice and consent of the Senate, who shall hold his office for two years, commencing on the first day of January.

Superintendent; how appointed. Ib, 93, § 2.

SEC. 3. The Superintendent, before entering upon the duties of his office, shall give bond, with two or more sufficient sureties, in the sum of twenty thousand dollars, to the Treasurer of the State, conditioned for the faithful performance of the duties of his office.

Bond. Ib, § 3.

Superintendent:

SEC. 4. It shall be the duty of the Superintendent:

To make regulations;

1. To make and establish all such regulations, for the due management of the concerns of the penitentiary, and for the government and security of the prisoners therein, as may be necessary and proper, and not repugnant to the laws of the State, and the same to alter, from time to time, as shall be found expedient, subject, however, to the revision, alteration or amendment of the Directors;

Appoint Keeper, &c;

2. To appoint and remove at pleasure a Keeper, and such servants and guards as shall be necessary for the due management of the prison and safe keeping of the prisoners;

Make purchases;

3. To purchase all the provisions and materials, and other articles necessary for supporting and employing the prisoners, and for effecting the objects of the institution;

Repairs;

4. To make all necessary repairs of the prison, and superintend the construction of the work;

Sales, &c.;

5. To make sale of such articles produced in, or belonging to, the prison, as are proper to be sold;

Take charge of buildings, &c.;

6. To take the charge and custody of the buildings, furniture, tools, implements, stock, provisions, and every species of property pertaining to the prison belonging to the State;

Disburse funds;

7. To receive and pay out all moneys granted by the General Assembly, or in any other way accruing for the support of the prison and carrying on the work;

Keep books, &c.;

8. To keep suitable books, regular and complete accounts of all property, expenses, purchases, sales, income, business and concerns of the establishment;

Report annually to Directors;

9. To report to the directors of the prison, on or before the fifteenth day of October, annually, a list of the prisoners, the commencement and expiration of their several sentences, and a copy of the regulations of the prison;

Report his accounts, &c.;

10. To make out and report to the Directors of the prison, and to the Comptroller-General, on or before the fifteenth day of October, annually, minute statements of all his accounts and doings up to that time;

Suppress disorders, &c.

Ib., 93, § 4.

11. To suppress any disorders, riots or insurrection that may take place among the prisoners.

May require aid to suppress disorders.

Ib., 94, § 5.

SEC. 5. In order to suppress any disorders, riots or insurrection among the prisoners, the Superintendent may require the aid and assistance of any of the citizens of the State.

Penalty for refusal.

Ib., § 6.

SEC. 6. If any person, when so required by the Superintendent, shall neglect or refuse to give such aid and assistance, he shall pay a fine not exceeding fifty dollars.

Compensation to those aiding, &c.

Ib., § 7.

SEC. 7. Any person so aiding and assisting the Superintendent shall receive a reasonable compensation therefor, to be paid by the Superintendent, and allowed him on the settlement of his accounts.

SEC. 8. If, in suppressing any such disorder, riot or insurrection, any person who shall be acting, aiding or assisting in committing the same shall be wounded or killed, the Superintendent, Keeper, or any person aiding or assisting him, shall be justified and be held guiltless.

Superintendent guiltless if injury, &c., be committed
Ib., § 8.

SEC. 9. In the absence of the Superintendent, the Keeper shall have the same power in suppressing the disorders, riots and insurrections, and requiring aid and assistance in so doing, that is herein given to the Superintendent.

Powers of Keeper.
Ib., § 9.

SEC. 10. The Superintendent shall receive and safely keep, at hard labor, in the prison, all prisoners sentenced to confinement at hard labor therein by the authority of the United States, until they shall be discharged agreeably to the laws of the United States.

Prisoners sentenced by U.S. authority to be received
Ib., § 10.

SEC. 11. All actions or suits at law for the recovery of any debt or demand accruing from the business transactions at the penitentiary, or for the recovery of damages for injuries done to any of the property or effects of said prison, shall be brought and maintained in the name of the Superintendent thereof, for the time being; and the said Superintendent is authorized and empowered to sue for and collect all such claims and demands of every description now due, or which may hereafter become due and payable, on account of said prison.

Actions at law to be in name of Superintendent.
Ib., § 11.

SEC. 12. The Governor shall, by and with the advice and consent of the Senate, appoint three Directors of the State Penitentiary, who shall have the power, and whose duty it shall be:

Governor to appoint Directors.
Ib., § 13.

1. To visit, jointly, the State Penitentiary at least four times in each year;

Directors: To visit, &c;

2. To examine and inquire into all matters connected with the government, discipline and police of the prison, the punishment and employment of the convicts therein confined, the money concerns and contracts for work, and the purchases and sales of the articles provided for the prison, or sold on account thereof, and the progress of the work;

Examine into discipline, &c;

3. To require reports from the Superintendent and Keeper, or other officers of the prison, in relation to any or all the preceding matters;

Require reports;

4. To make such general regulations for the government and discipline of the prison, or modify such regulations as may have been made by the Superintendent, as they may deem expedient, and from time to time alter and amend the same; and, in making such regulations, it shall be their duty to adopt such as, in their judgment, while consistent with the discipline of the prison, shall best conduce to the reformation of the convicts;

Make regulations;

5. To inquire into any improper conduct which may be alleged to have been committed by the Superintendent, Keeper, or other officer of the prison, and, for that purpose, to issue subpœnas to compel the attendance of witnesses, and the production before them of books, writings and papers, in the same manner, with like effect, and subject to the same

Investigations;

penalties for disobedience, as in cases of trial before Trial Justices; and to examine, under oath, any person or persons who may be brought before them as witnesses;

Keep minutes;

6. To keep regular minutes of their meetings and proceedings at the prison, which minutes shall be signed by them and entered in a book which shall be kept for that purpose at the prison;

Prescribe food;

7. To prescribe the articles of food and quantities of each kind that shall be inserted in each contract for the supply of provisions to the prison;

Suspend or remove Superintendent;

8. To suspend or remove, with the consent of the Governor, the Superintendent, for oppression and misconduct in office; such suspension or removal shall not take place without giving the Superintendent an opportunity to be heard in his defence;

Make annual report to Governor.

9. To make an annual report to the Governor, on or before the first day of November in each year, of the state and condition of the prison, the convicts confined therein, of the money expended and received, and generally of all the proceedings during the last year, to be laid before the General Assembly.

Directors may appoint Chaplain.

Ib., 65, § 14.

SEC. 13. The Directors of the prison may appoint a Chaplain, who may be furnished with quarters within or near the enclosure, whose duty it shall be, on every Sabbath, and as often as the rules will permit, to perform in the prison such religious services as are usually performed in the churches of this State, and attend to instruct the prisoners in their moral and religious duties, and visit the sick on suitable occasions; said Chaplain shall receive such compensation, not exceeding five hundred dollars per annum, as shall be determined by the Directors.

His compensation.

Salaries.

Ib., § 15.

SEC. 14. The Superintendent shall receive a salary of two thousand dollars per annum, and the Keeper, and other officers and employees, such compensation as may be fixed by the Superintendent and approved by the Directors.

Pay of Directors.

Ib., § 16.

SEC. 15. The Directors, for services performed under this Chapter, shall receive four dollars per day for time necessarily employed, and ten cents per mile for necessary travel.

Penalty for connivance at escape.

Ib., § 17.

SEC. 16. If any person employed in keeping, taking care of or guarding the penitentiary, or the prisoners therein, shall contrive, procure, connive at, or otherwise voluntarily suffer or permit the escape of any such prisoner or prisoners, he, on conviction thereof, shall be confined at hard labor in the penitentiary not exceeding twenty years.

Transportation and clothing for discharged convicts.

1868, XIV, 69, § 1.

SEC. 17. Whenever a convict shall be discharged from the penitentiary, it shall be the duty of the Superintendent to furnish such convict with a suit of common clothes, if deemed necessary, and transportation from the penitentiary to his home, or as near thereto as can be done by public conveyances.

SEC. 18. The cost of such transportation and clothes shall be paid at the Treasury, on the draft of the Superintendent, countersigned by the Comptroller General.

Payment for transportation, &c. Ib., § 2.

PART V.

OF THE GENERAL STATUTES AND THE REPEAL OF EXISTING LAWS.

CHAPTER CXLVI. *Of the General Statutes and their Effect.*
CXLVII. *Of the Repeal of Existing Laws.*

CHAPTER CXLVI.

OF THE GENERAL STATUTES AND THEIR EFFECT.

SEC.
1. General Statutes, how cited.
2. When to take effect.
3. Repeal by, not to revive former laws, &c.
4. Not to effect acts done, &c.
5. Nor penalties or forfeitures, &c., except, &c.
6. Nor suits commenced, &c.
7. Periods of limitation to continue to run.
8. Tenure of office preserved.
9. Construction of words.
10. Common law of England declared to be of force.

SECTION 1. This Act shall not, in any citation or enumeration of the Statutes, be reckoned as one of the Acts of the present year, but may be designated as the General Statutes, adding, when necessary, the number of the Chapter and Section.

General Statutes, how cited.

SEC. 2. The General Statutes aforesaid shall take effect and go into operation from and after the ——— day of ——— ———.

When to take effect.

SEC. 3. The repeal of the Acts and Resolves, and parts of Acts and Resolves, revised and re-enacted herein, or repugnant to the provisions hereof, shall not revive any law heretofore repealed or superseded, nor any office heretofore abolished.

Repeal by, not to revive former laws, &c.

Not to effect acts done, &c.

SEC. 4. It shall not effect any act done or right accruing, accrued or established, or any proceedings, doings or acts, ratified or confirmed, or any suit or proceeding had or commenced, in a civil case, before the repeal takes effect; but the proceedings therein shall, when necessary, conform to the provisions of the General Statutes.

Nor penalties or forfeitures, &c., except, &c.

SEC. 5. It shall not effect any penalty or forfeiture incurred before it takes effect, under any of the laws repealed, except that, where a punishment, penalty, or forfeiture, is mitigated by the provisions of the General Statutes, such provisions may be extended and applied to any judgment pronounced after said appeal.

Nor suits commenced, &c.

SEC. 6. It shall not effect any suit or prosecution pending at the time of the repeal for an offence committed, or for the recovery of a penalty or forfeiture incurred, under any of the Acts repealed, except that the proceedings thereon shall, when necessary, conform to the provisions of the General Statutes.

Periods of limitation to continue to run.

SEC. 7. When a limitation, or period of time prescribed in any of the Acts repealed, for acquiring a right, or barring a remedy, or any other purpose, has begun to run, and the same or similar limitations is prescribed in the General Statutes, the time of limitation shall continue to run, and shall have like effect, as if the whole period had begun and ended under the operation of the General Statutes.

Tenure of office preserved

SEC. 8. All persons who, at the time when said repeal takes effect, hold any office under any of the Acts repealed, shall continue to hold the same according to the tenure thereof, except those offices which have been abolished, and those as to which a different provision is made by the General Statutes.

Construction of words.

SEC. 9. The words "person" and "party," and other word or words importing the singular number, as used in this Act, shall be held to include firms, companies, associations and corporations, and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this Act requires it. All words in this Act importing the masculine gender, shall apply to females also; and all words in this Act importing the present tense, shall apply to the future also.

Common law of England declared to be of force.

1712, II, 413, § 5. 1808, XIV, 74, § 6.

SEC. 10. All and every part of the Common Law of England, where the same is not altered by this Act or inconsistent with the Constitution, customs and laws of this State, is hereby continued in full force and virtue within this State in the same manner as before the adoption of this Act.

CHAPTER CXLVII.

Of the Repeal of Existing Laws.

The following entitled Acts, Ordinances and Resolves, passed in the several years hereinafter enumerated, have expired, or have been, or are hereby, expressly repealed, subject to all the provisions of Chapter CXLVI:

Sixteen Hundred and Eighty-two.

An Act for the observation of the Lord's Day.

An Act for the suppression of Idle, Drunken and Swearing Persons, inhabiting within this Province.

An Act for Highways.

An Act for settling the Militia.

An Act for raising a Tax of £400, or the value thereof, for defraying the publick charges of this Province.

Sixteen Hundred and Eighty-three.

An Act to suspend prosecution for foreign debts.

An Act inhibiting the Trading with Servants or Slaves.

An Act for raising the value of Forraign Coyn.

An Act for the Tryall of Small and Mean Causes, under 40s.

An Act for Servants arriving without indentures or contracts.

An Act concerning the Highways.

An Act for raising a Tax of £500 sterling for the defraying the publick charges of this Province.

An Act for preventing the taking away of Boats or Canoes.

An Act for marking all sorts of Cattle.

An Act for damage of Protested Bills of Exchange.

An Act for regulating the Surveyor General's fees.

An Act for ascertaining Public Officers' Fees.

An Act to prevent unlicensed Taverns and Punch Houses, and for the ascertaining the rates and prices of Wines and other Liquors.

An Act to prevent Runaways.

Sixteen Hundred and Eighty-five.

An Act for settling the Militia.

An Act for the raising of £500 sterling, besides the Assessors' particular assessments, for the defraying the public charges of this Province.

An Act for the settling of a Pilot.

(The originals of the preceding Acts are not now to be found. The titles of them are preserved in Trott's Laws of South Carolina, pages 1, 2, 3.)

An Act ascertaining the Governor's fees.

An Act for the ascertaining the fees of the Surveyor General, Clarke of the Peace and Crown, Coroner, and of the Clarke of the Parliament.

An Act for the restraining and punishing Privateers.

Sixteen Hundred and Eighty-seven.

An Act for making and mending Highwayes and Pathes, and for cutting of Creeks and Water-courses.

An Act for ascertaining the Governor's fees.

An Act inhibiting the trading with Servants or Slaves.

An Act for the suppressing and punishing Privateers and Pirates, and to direct and require the speedy opposition of them or any other enemyes that shall invade or molest this Province.

An Act for the tryall of Small and Meane Causes.

An Act for ascertaining the damage upon Protested Bills of Exchange, and to prevent the carrying of money from this Province.

An Act for servants hereafter arriving without indentures or contracts.

An Act for the preventing Seamen contracting of great debts.

An Act for regulating the entreyes of Vessels and giving out of Ticketts.

An Act for the tryall of Small and Meane Causes.

An Act to ascertain the prices of Commodityes of the countrye's growth.

An Act to ascertain the damages upon Protested Bills of Exchange.

An Act for the better regulation of the Militia.

Sixteen Hundred and Ninety.

An Act for ascertaining the Governor's fees.

An Act for the better settling and regulating of the Militia.

Sixteen Hundred and Ninety-one.

An Act for the tryall of Small and Meane Causes.

An Act for making and mending Highways and Paths and for cutting of Creeks and Water-Courses.

An Act for the better ordering of Slaves.

An Act for the settling of Pilotage.

An Act inhibiting the trading with Servants and Slaves.

An Act to prevent all evill disposed persons from trusting all Mariners and Seamen.

An Act for the ascertaining the Guage of Barrels, and for avoiding of deceipts in selling and buying Beefe and Porke.

An Act for the better encouragement of the Settlement of that part of the Province that lyes south and west of Cape Feare.

An Act for the better securing the Payments of Debts due from any person inhabiting and resideing beyond Sea or elsewhere without the limits of this part of the Province.

An Act for the Entryes of Vessells.

An Act for raising a Tax.

An Act for destroying wild and unmarked Cattle.

An Act for the making and mending Highways and for cutting of Creeks and Water-courses.

An additional Act to an Act entitled an Act for the better settlement and regulating of the Militia.

An Act for the encouragement of the making of Engines for propagating the staples of this Collony.

An Act for laying a Tax or Duty on Skins or Furs, for the publick use of this Province, and regulating the Indian Trade.

*An Act for the better observance of the Lord's Day, commonly called Sunday.

An Act to establish and settle the weight of Spanish Coyne.

Sixteen Hundred and Ninety-two.

An Act to regulate the Election of Members of Assembly.

An Act for destroying Unmarked Cattle.

An Act to prohibit the engrossing of Salt, and to ascertain Weights and Measures, and to appoint a Market Place in Charlestown.

An Act inhibiting the Trading with Servants and Slaves.

An Act to prevent Mariners and Seamen running into Debt.

An Act for the Settling of Pilotage.

An Act for the better observance of the Lord's Day, commonly called Sunday.

An Act to impower the several Magistrates, Justices, Ministers and Officers within this part of this Province, to execute and put in force an Act made in the Kingdom of England, Anno 31, Caroli 2, Regis, commonly called the *Habeas Corpus* Act.

An Act for the Tryall of Small and Meane Causes.

An Act to provide Indifferent Jurymen in all Causes Civil and Criminal.

An Act for making and mending Highways and Paths, and for cutting of Creeks and Water-courses.

An Act to make current, establish and settle the weight of Foreign Coyne.

An Act for the Entry of Vessels.

An Act for ascertaining the Guage of Barrels, and for avoiding of deceipts in selling and buying Beef and Pork.

An Act for regulating Publick Houses, and for ascertaining the prices of Liquors.

An Act for raising Money for the several uses within mentioned.

An Act for the better settling and regulating the Militia.

An Act for ascertaining Public Officers' Fees.

An Act for the better securing the payment of Debts due from any person inhabiting and residing beyond Sea, without the limits of this part of the Province.

An Act for the better ordering of Slaves.

Sixteen Hundred and Ninety-four.

An Act for the Poor.

An Act to encourage the making of Wine, Indigo and Salt, within this settlement.

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*Not of force. See 10 Rich., 128.

An Act to encourage the planting of Wheat.

An Act for the limitation of Actions and for the avoiding of Suits in Law.

An Act for the better and more certain keeping and preserving of old Registers and Publique Writings of this part of the Province.

An Act for the better settlement of this Province.

An Act for the determination of General Assemblies, and for preventing of inconveniencies happening by long intermission of General Assemblies.

An Act to put in force the several Acts of the Kingdom of England therein particularly mentioned.

An Act for making sufficient Fences and keeping the same in repair.

An Act to raise Money to be disposed of for the encouragement of the production and manufacturing of divers sorts of Provision and Commodities of the growth of this Province.

Sixteen Hundred and Ninety-five.

An Act for regulating Publique Houses.

An Act for ascertaining Publique Officers' Fees.

An Act for the settling of Pilotage.

An Act to make currant, establish and settle the weight of Forraigne Coyne.

An Act to provide indifferent Jurymen in all causes, civil and criminal.

An Act for the ascertaining the Guage of Barrells, and for avoiding deceits in selling and buying Beef and Pork.

An additional Act for the better collecting and receiving the duties and rates upon Liquors, Tobacco and Provisions, imported into this part of this Province.

An Act declaratory concerning Indifferent Jurymen, in all causes, civil and criminal.

Sixteen Hundred and Ninety-six.

An Act to ascertain the prices of Land, the forms of Conveyances, and the manner of recovering of Rents for Lands, and the prices of the several commodities the same may be paid in.

An Act for remission of part of arrears of Rent, and to ascertaine the payment of the remainder.

An Act to prevent the stealing and taking away of boats and canoes.

An Act for the destroying of unmarked cattle.

An Act for destroying Beasts of Prey, and for appoynting Magistrates for the hearing and determining of all causes and controversies between White Man and Indian, and Indian and Indian.

An Act for regulating Publick Houses, and to ascertaine the prices of Liquors.

An Act for the Poor.

An Act inhibiting the tradeing with Servants and Slaves.

An Act to prevent Mariners and Seamen running into debt.

An Act for the regestering of Birthes, Marriages and Burials.

An Act for the better settling and regulating the Militia.

An Act for the cutting of several Creeks and Water Passages for the benefit of the Inhabitants of this Province.

An Act for the better ordering of Slaves.

An Act for the making and mending Highways and Paths, and for the cutting of Creeks and Water-courses.

An Act to prevent abuses by false Weights and Measures, and to appoint a sworn Measurer.

An Act to revive an Act for the better settling and regulating the Militia.

An Act for the encouragement of the better settlement of South Carolina.

An Act for the Settling of Pilotage.

Sixteen Hundred and Ninety-seven.

An Act to make currant Foraign Coin, and settle the weight thereof.

A Declaratory and Additional Act to provide indifferent Jurymen in all Causes civil and criminal.

An Act to regulate the election of Members of Assembly.

An Act for the limitations of Actions and for the avoiding and preventing Suits in Law.

An Act for the making Aliens free of this part of this Province, and for granting liberty of conscience to all Protestants.

An Act to settle the form of conveyances for the purchase of the Quit Rents of Lands patented at One Penny per Acre.

Sixteen Hundred and Ninety-eight.

An Additional Act for the better settling and regulating the Militia.

An Additional Act for the Poor.

An Act for making and mending Highways and Paths, and for cutting of Creeks and Water-courses.

An Act to prevent deceits by double Mortgages and Conveyances of Lands, Negroes and Chattels, &c.

An Act for the Entry of Vessels.

An Act for ascertaining Publick Officers' Fees.

An Act for the encouragement of the importation of White Servants.

An Act for the better ordering of Slaves.

Sixteen Hundred and Ninety-nine.

An Act for the ascertaining the Guage of Barrels, and for avoiding Deceipts in selling and buying Beef and Pork.

Seventeen Hundred.

An Act to make Sullivan's Island more remarkable to Mariners.

An Act to lay an imposition on Liquors and Goods imported into this part of the Province, for the defence and support of this Government.

An Act to raise the current Coin of this Province.

Seventeen Hundred and One.

An Act to prevent Horses being brought by Land from the Northern Settlements into this Government.

An Additional Act for making and mending Highways.

An Act to prevent Prisoners from making escape, and to appoint Sessions and Gaol Delivery twice every year.

An Act for the better regulating the proceedings of the Court of Admiralty in Carolina, and the Fees of the same.

An Act for the better settling of Pilotage.

An Additional Act to an Act for laying an imposition on Liquors, &c.

An Act to raise the currant Coin, and for the promoting of the Currency of Heavy Money.

An Additional Act to an Act for the ascertaining of Gageing of Barrels, &c.

An Act for the better settling of Pilotage.

An Act for the encouragement of killing and destroying Beasts of Prey and Birds.

An Act for the prevention of Runaways deserting this Government.

An Act for the better settling and regulating the Militia, and appointing Look-outs.

An Act for the better ordering of Slaves.

Seventeen Hundred and Two.

An Act for raising money for the Publick use and defence of this Province.

An Additional Act to provide indifferent Jurymen in all Causes, civil and criminal.

An Ordinance of the General Assembly, directing the manner how juries shall be drawn.

An Additional Act for the mending of Highways, &c.

An Act to prevent abuses by false Weights and Measures, and to appoint a sworne Measurer, with a clause to prevent the scarcity of Salt.

An Act to erect a General Post Office.

An Act for the better settling of Pilotage.

Seventeen Hundred and Three.

An Act for the more effectual suppressing of Blasphemy and Profaneness.

An Act for the regulating of Taverns and Punch Houses.

An Act for the better settling and regulating the Militia, and appointing Look-outs.

An Act for the encouragement of killing and destroying Beasts of Prey.

An Act for the ascertaining the Guage of Barrells, and for avoiding Deceipts in Selling and Buying Beef and Pork, Pitch and Tarr.

An Act for taking up and killing wild, unmarked and out-lying Cattle.

A Continuing and Additional Act to an additional Act for making and mending Highways.

An Act to make authentic the copy of an Act entituled an Act against Bartardy, the original being lost.

An Act against Bastardy.

An Act for making Mariners and Sailers more useful in time of alarms, and for punishing of Victuallers for entertaining of persons in time of alarms.

Seventeen Hundred and Four.

An Act for the more effectual preservation of the Government of this Province, by requiring all persons that shall hereafter be chosen Members of the Commons House of Assembly, and sit in the same, to take the Oaths and subscribe the declaration appointed by this Act, and to conforme to the Religious Worship in this Province according to the Church of England, and to receive the Sacrament of the Lord's Supper according to the rites and usage of the said Church.

An Act to make all Goods imported and exported in any Vessells belonging to this Port, to pay the same Duties as if imported in Vessells not belonging to the same, to incourage Navigation: And to impower the Governour to draw Money out of the Treasury for damage done to the Town Lotts by the Intrenchments.

An Act for the establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the Public Worship of God, and also for the maintenance of Ministers and the building convenient Houses for them.

An Act to Regulate the Elections of the Members of Assembly.

An Act for the making Aliens Free of this part of the Province.

An Act to settle a Patroll.

An additional Act to the Act to provide Indifferent Jury-men.

An Ordinance of the General Assembly directing the manner how the Juries shall be drawn.

An Act for Raising and Enlisting such Slaves as shall be thought serviceable to this Province in time of allarms.

Seventeen Hundred and Five.

An additional Act to an Act entitled an Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the Erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers and the building convenient Houses for them.

An Act to prevent Stealing of Horses and Neat Cattle.

An additional Act to an Act entitled an Act for ascertaining the Gaugeing of Barrels, and for avoiding Deceipts in Selling and Buying Beef and Pork, Pitch and Tarr.

Seventeen Hundred and Six.

An Act to Erect the French Settlement on Santee into a Parish.

An Act relating unto the Office and Duty of a Coroner, and for settling and ascertaining the Fees of the same.

An Act for the sooner and more secure payment of the Debts oweing by the Publick, and for continuing the currency of the Bills of Credit, commonly called Country Bills.

An Act for the Establishment of Religious Worship in this Province, according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers and the building convenient Houses for them.

Seventeen Hundred and Seven.

An additional Act to an Act entituled an Act for the ascertaining the Gaugeing of Barrels and for avoiding Deceipts in selling and buying Beef and Pork, Pitch and Tarr; and to one other Act entituled an additional Act to an Act for the ascertaining the Gauge of Barrels and for avoiding Deceipts in selling and buying Beef and Pook, Pitch and Tarr.

An Act for encouraging the Making of Potash and Saltpeeter.

An Act for the Settling of Pilotage.

An Act for the better Settling and Regulating the Milita.

Seventeen Hundred and Seven.

An additional Act to an Act entitled an Act for the establishment of Religious Worship in this Province according to the Church of England, and for the erecting of Churches for the Publick Worship of God, and also for the maintenance of Ministers and the building convenient Houses for them.

Seventeen Hundred and Eight.

An Act for ascertaining the Fees relating to the Office and Duty of a Justice of the Peace.

An Ordinance of the General Assembly directing the manner how the Juries shall be drawn.

An additional Act to an Act for Making and Mending Highways and Paths, and for Cutting of Creeks and Water-courses.

An Act for regulating Taverns and Punch Houses.

Seventeen Hundred and Ten.

A further additional Act to an Act entituled an Act for the establishment of Religious Worship in this Province according to the Church of England, and for the erecting of Churches for the publick worship of God, and also for the maintenance of Ministers and the building convenient Houses for them.

An Act for the Founding and Erecting of a Free School, for the use of the Inhabitants of South Carolina.

An Act to prevent abuses by False Weights and Measures, and to appoint a sworn Measurer, with a clause to prevent the scarcity of Salt.

An Act for appointing a Publick Vendue-Master, for the selling such Goods and Merchandizes as shall be exposed to Sale by Publick Outcry.

An Act for reduceing the Watches and Look-outs placed and appointed on the Sea Coast of this Province to a lesser number, and regulateing and providing convenient necessaries and allowances for the same, and also encouraging the taking up Servants and Slaves.

Seventeen Hundred and Eleven.

An Act to oblige those Traders that come from Virginia and other neighbouring Colonies to trade with the Indians or White Persons living within this Province and Government, to come first to Charlestown and take out Licences to trade, and to be subject to the like regulations, and to pay the same duties of Import and Export with the Inhabitants of this Province and Government, who trade with the Indians living within the bounds of the same.

An Act to encourage Strangers to come to this Port, by making Sullivan's Island more remarkable by building a new Look-out, repairing the old house, and buoying the Channel.

An Act for regulating Taverns and Punch Houses.

An Act for the encouragement of Trade and Navigation, by building and owning of Ships and Vessels by the Inhabitants of this Province and others, and encouraging Artificers to come into and build the same.

Seventeen Hundred and Twelve.

An additional Act to the several Acts relating to the establishment of Religious Worship in this Province, and now in force in the same, and also to the Act for securing the Provincial Library at Charlestown in Carolina.

An Act for the Encouragement of Learning.

An additional Act to an Act entitled an Act to provide indifferent Jurymen in all Causes, civil and criminal.

An Act for the better ordering and holding the Court of General Sessions, Assize and Goal Delivery, and the Court of Common Pleas, in this Province.

An Act for building a convenient State House for the holding of the General Assemblies, Courts of Justice, and other publick uses.

An Act for the better ordering and governing of Negroes and Slaves.

An Act for the more effectual preventing the spreading of Contagious Distempers.

An Act for the better strengthening of this Province by increasing the numbers of the inhabitants thereof, and for encouraging the making Potash, building Sawmills and other mechanick Engines.

An Act for Founding and Erecting of a Free School in Charlestown, for the use of the Inhabitants of this Province of South Carolina.

An Act for the better observation of the Lord's Day, commonly called Sunday.

An Act to empower the Right Honorable the Governour of this Province, the Lords Deputies, the Chief Justice or the Justices of the Peace, and other Officers or Ministers within this Province, to execute and put in force in the same, an Act made in the Kingdom of England in the

thirty-first year of the Reign of the late King Charles the Second, entitled an Act for the better securing the Liberty of the Subject, and for the prevention of imprisonments beyond the Seas, commonly called the Habeas Corpus Act.

An Act to put in force in this Province the several Statutes of the Kingdom of England, or South Britain, therein particularly mentioned.

An Act for settling the Titles of the Inhabitants of this Province to their possessions in their Estates within the same, and for Limitations of Actions, and for avoiding Suits in Law.

An Act for the better securing the payment of Debts due from any Person inhabiting and residing beyond the Sea, or elsewhere without the limits of the Province of South Carolina, and to subject a *Feme Covert* that is a Sole Trader to be arrested and sued for any debt contracted by her as a sole trader.

An Act for the better relief of the Poor of this Province.

Seventeen Hundred and Thirteen.

An additional Act to an Act entituled an Act for the better relief of the Poor of this Province.

An additional Act to an Act entituled an Act to prevent and suppress Fire in Charlestown.

An Act to prevent Wines the growth of the Western Islands to be imported into this Province as Wines of the growth of Madera; and for lessening the duty of light Deer Skins, not weighing sixteen ounces.

An Act to encourage Strangers to come to this Port by making Sullivane's Island more remarkable, by building a new Look-out and buoying the Channels.

An Act for the more speedy commencement and prosecution of Suits of Law in the Court of Common Pleas in this Province.

Seventeen Hundred and Fourteen.

An Act to revive and continue several Laws and paragraphs of Laws, and for repealing and making void some clauses in another Law.

Seventeen Hundred and Fifteen.

An Act for avoiding Deceipts in Selling of Beef and Pork, Pitch and Tar, Rozin and Turpentine, by appointing Packers in several parts of this Province.

Seventeen Hundred and Sixteen.

An Act to appropriate the Yamosee Lands to the use of such persons as shall come into and settle them-selves in this Province, and to such other persons qualified as therein mentioned.

An Act to encourage the importation of White Servants into this Province.

An additional Act to an Act to prevent deceipts in selling of Beef, Pork, Pitch, Tar, Rosin and Turpentine.

An Act to appoint a Press Master, and lay a penalty upon any person

or persons that shall refuse, upon oath, to appraise such Goods and all other Necessaries as shall be impressed for the service of the publick.

An Act to keep inviolate and preserve the freedom of Elections, and appoint who shall be deemed and adjudged capable of choosing or being chosen Members of the Commons House of Assembly.

An Act for the better ordering and settling the Pilotage.

Seventeen Hundred and Seventeen.

An Act for the better settling and regulating the militia.

An Act to grant several privileges, exemptions and encouragements, to such of his Majesty's Protestant Subjects as are desirous to come into and settle in this Province.

An Additional and Explanatory Act to an Act entituled an Act to keep inviolate and preserve the freedom of Elections, and appoint who shall be deemed and adjudged capable of choosing or being chosen Members of the Commons House of Assembly; duely ratified in open Assembly the fifteenth day of December, 1716.

An Additional Act to an Act entituled An Additional Act to the several Acts for making and repairing of Highways; ratified June 7, 1712.

An Act for the better governing and regulating White Servants.

A further Additional Act to an Act entituled an Act for the better ordering and governing Negroes and all other slaves; and to an Additional Act to an Act for the better ordering and governing Negroes and all other Slaves.

Seventeen Hundred and Eighteen.

An Act for the more speedy and regular Trial of Pirates.

Seventeen Hundred and Nineteen.

An additional Act to the several Acts now of force relating to the payment of the Lords Rents and the Sale of their Lands in this Province.

An Act to ascertain the manner and form of Electing Members to represent the inhabitants of this Province in the Commons House of Assembly, and to appoint who shall be deemed and adjudged capable of choosing or being chosen members of the said House.

An Act for preventing the Embezelment of the Publick Records of the Settlement, and for obtaining the same out of the hands of such persons as now have the custody thereof.

An Act for the better regulating Courts of Justice.

An Act for the speedy recovery of Small Debts out of Court, before a single Justice of the Peace.

An Act for preserving the arms, ammunition, and other warlike stores belonging to the publick of this Settlement.

An Act against Excessive Usury.

An additional Act to an Act for regulating Taverns and Punch Houses.

An Act for the encouragement of Planting, and relief of Debtors.

Seventeen Hundred and Twenty.

An Act to prohibit the Exportation of Provisions, and encourage the importation of the same.

An Act for the amendment of the Law.

Seventeen Hundred and Twenty-one.

An Act for preventing the desertion of Insolvent Debtors, and for the better settling the Frontiers of this Province.

An Act for preventing, as much as may be, the spreading of Contagious Distempers.

An Act for the speedy recovery of Small Debts.

An Act for the better settling and regulating the Militia.

An Act for establishing a Court of Chancery in this, his Majesty's Province of South Carolina.

An Act to impower the several Commissioners of the High Roads, private Paths, Bridges, Creeks, Causeys, and cleansing of Water Passages in this Province of South Carolina, to alter and lay out the same, for the more direct and better conveniency of the inhabitants thereof.

An Act against excessive Usury.

An Act to ascertain the manner and form of electing members to represent the inhabitants of this Province in the Commons House of Assembly, and to appoint who shall be deemed and adjudged capable of choosing or being chosen members of the said House.

An Act for the better regulation of the Indian Trade, by appointing Commissioners for that purpose, and to survey and supervise the Garrisons, and to settle the bounds of the Indians.

An Act for establishing County and Precinct Courts.

An Act for appointing a Publick Treasurer, and other Publick Officers.

An Act for the relief of Poor Debtors.

An Act for preventing the desertion of Insolvent Debtors, and for the better settling the Frontiers of this Province.

An additional Act to an Act entituled an Act for establishing County and Precinct Courts.

An Act to encourage the making of hemp.

An Act for the amendment of an Act of this present General Assembly, entituled an Act for the better regulation of the Indian Trade, by appointing Commissioners for that purpose, and to survey and supervise the Garrisons, and to settle the bounds of the Indians.

An Act for authorizing the General Court in Charles City and Port to exercise several powers and privileges allowed to the County and Precinct Courts in this Province, and some other regulations.

An Act for the better ordering and governing of Slaves.

Seventeen Hundred and Twenty-three.

An Act for settling and regulating the Pilotage of this Province.

An additional Act to an Act entituled an Act for the better Regulating of the Indian Trade, by appointing Commissioners for that purpose; Passed the nineteenth of September, 1721.

Seventeen Hundred and Twenty-five.

An Act for the encouragement of making Salt in the Province of South Carolina.

An Act for the better regulation of the Indian Trade, and for appointing a Commissioner for that purpose, and to survey and supervise the Garrisons.

An Act to encourage persons to become Settlers in the Province of South Carolina.

An Act for the better settling and strengthening of this Province.

Seventeen Hundred and Twenty-six.

An additional Act to an Act for the trial of small and mean causes.

An Act to preserve the Navigation and Fishery in the Several Rivers and Creeks in this Province.

An Act for the encouragement of killing and destroying Beasts of Prey.

An Act for the better securing this Province from Negro Insurrections, and for encouraging of poor people by employing them in plantations.

An Act for the better settling of the Courts of Justice.

Seventeen Hundred and Thirty-one.

An Act confirming and establishing the ancient and approved method of drawing Juries by ballot, in this Province, and for the better administration of justice in criminal causes, and for appointing of Special Courts for the trial of the causes of transient persons, declaring the power of the Provost Marshal, for allowing the proof of deeds beyond the seas as evidence, and for repealing the several Acts of the General Assembly therein mentioned.

An Act for obliging persons living and residing in the Counties and Precincts of this Province to serve as Jurymen in Charlestown, and for repealing of a certain clause in an Act entitled an Act for settling the Titles of the inhabitants of this Province to their possessions in their estates within the same, and for limitations of actions, and for avoiding suits in law.

An Act for remission of arrears of Quit Rents, and for registering of Patents, Grants, or Memorials of Patents and Grants, and Memorials of Title Deeds, for the better ascertaining and regulating the payment of his Majesty's Quit Rents for the future, and for supplying the defect of those Patents and Grants where any lands have been meeted out and ascertained to the patentees or grantees, and of the Titles of persons claiming under the same Patents and Grants, and for the confirming and establishing the titles and possessions of the several inhabitants of this Province to their respective lands, tenements, and hereditaments within the same; and for keeping the office of Publick Register of the Province from being united to other office or offices, appointed or to be appointed by his Majesty, for Registering, Enrolling, or Recording of Grants or Deeds; and for suspending the Act for calling in and sinking the paper bills; and for appropriating the monies arisen and to arise, by virtue of

an Act entitled an Act for granting to his Majesty a duty and imposition on negroes, liquors, and other goods and merchandizes, for the use of the publick of this Province, to the services of this Province; and for repealing of an Act to ascertain the prices of lands, the form of conveyances, and the manner of recovering of rents for lands, and the prices of the several commodities the same may be paid in, passed the sixteenth of March, one thousand six hundred and ninety-five; and for repealing part of an Act of the General Assembly entitled a Declaratory Act concerning several Acts of the General Assembly of this Province that are repealed, and also concerning the adjournments of the Commons House of Assembly, passed the eighteenth of September, one thousand seven hundred and thirteen.

An Act to prevent any delay of justice that may be occasioned by not drawing the Juries, which are to serve at the next ensuing Court of Common Pleas, General Sessions of the Peace, Oyer and Terminer, Assize and General Goal Delivery, on the days appointed for that purpose, and for the regulating of the several Courts therein mentioned.

Seventeen Hundred and Thirty-three.

An Act for making more effectual Wills and Testaments, and for making valid all former Wills, in this Province, according to the tenor of the same; and for putting in force several useful matters herein comprised.

An Act to ascertain the Fees of the Surveyor General for the time being, and his Deputies: and to prevent any irregularities being committed in the Office of the said Surveyor General, or by any of his Deputies.

An Act for the prevention of suits and disturbances to His Majesty's Judges and Magistrates in this Province, on account of the Habeas Corpus Act.

An Act to encourage the destroying of Beasts of Prey.

An Act for ease in pleading in troublesome and contentious Suits prosecuted against Justices of the Peace, Constables and certain other of His Majesty's Officers, for the lawful execution of their Office.

Seventeen Hundred and Thirty-four.

An Act for making more effectual Wills and Testaments, and for making valid all former Wills in this Province, according to the tenor of the same, and for putting in force several useful matters herein comprised.

An Act for giving further encouragement to the Soldiers serving in the several Garrisons and Scouts in this Province.

An Act for the better regulating the Courts of Justice in this Province, and for altering the time of holding Courts.

An Act for the better regulating the Militia.

Seventeen Hundred and Thirty-five.

An Act for laying Buoys and erecting and supporting Beacons or Landmarks near the Bar of the Harbour of Georgetown, Winyaw, and

for building and repairing one or more Pilot Boat or Boats to attend the Bar of the said Harbour, and for the better settling and regulating the pilotage for the said Harbour.

An Act for the more effectual preventing the Counterfeiting the Bills of credit of this Province, and for calling and re-issuing such of the denominations of the Current Bills of this Province, as are or shall be supposed to be counterfeited.

Seventeen Hundred and Thirty-six.

An Act for ascertaining Public Officers' Fees.

An Act for encouraging the raising of Hemp, Flax, and Silk, within the Province of South Carolina.

An Act for establishing and regulating of Patrols,

An Act for the better regulating the Court of Common Pleas to be holden on every second Tuesday in February, May, August and November, yearly and every year, being the antient times heretofore appointed for holding the said Court.

An Act for putting in force in this Province part of an Act of the Parliament of England, made in the fifth and sixth years of the reign of King Edward the sixth, against buying and selling of Offices, and also part of an Act of the Parliament of Great Britain, made in the second year of the reign of our present most gracious sovereign Lord King George the second, entituled "An Act for the more effectual preventing and further punishment of Forgery, Perjury, and subordination of Perjury, and to make it Felony to steal Bonds, Notes or other securitys for payment of money," and also part of one other Act of the Parliament of Great Britain, made in the seventh year of the reign of his said present Majesty, entituled "An Act for the more effectual preventing the forging the acceptance of Bills of Exchange, or the numbers or principal sums of accountable receipts for notes, bills or other securitys for payment of money, or warrants or orders for payment of money or delivery of goods, and for the more effectual putting in execution the said several Acts in this Province.

An additional and explanatory Act to an Act for advancing the Salaries of the Clergy, and for a further, more equal and effectual provision for the relief of the poor.

Seventeen Hundred and Thirty-eight.

An Act for the better regulating the Militia of this Province.

An Act for licencing Hawkers, Pedlars, and Petty-chapmen, and to prevent their trading with indented Servants, Overseers, Negroes and other slaves.

An Act for easing the port charges to coasting vessels entering into and clearing out from port to port within this Province, and to prevent any impotent, lame, or infirm person or persons being imported, brought to or landed in any part within this Province, who shall be likely to become burthensome or be a charge to the parish.

An Act for the clearing and opening the several Creeks, Cut-offs, or water passages therein mentioned, and for regulating the boats and pettiaugers going through the same.

An Act to prevent frauds and deceipts in selling rice, pitch, tar, rosin, turpentine, beef, pork, shingles, and fire-wood.

Seventeen Hundred and Thirty nine.

An additional and explanatory Act to an Act for the better regulating the Militia of this Province.

An Act for the better security of the inhabitants of this Province against the insurrections and other wicked attempts of Negroes and other slaves.

An Act to restrain and prevent the purchasing Lands from Indians.

An Additional and explanatory Act to an Act for the Entry of Vessels.

Seventeen Hundred and Forty.

An Act to appoint persons to serve in Jurys, pursuant to the directions of an Act of the General Assembly, passed the twentieth day of August, in the year of our Lord one thousand seven hundred and thirty-one, intitled "an Act confirming and establishing the antient and approved methods of drawing Jurys by ballot in this Province, and for the better administration of justice in criminal causes, and for appointing of Special Courts for the tryal of the causes of transient persons, declaring the power of the Provost Marshal, for allowing the proof of deeds beyond the seas as evidence, and for repealing the several Acts of the General Assembly therein mentioned," and for appointing a sermon to be preached on the first day of every Court of General Sessions of the Peace, Oyer and Terminer, Assize and General Goal Delivery.

An Act concerning masters and apprentices.

An Act to prevent the delay of Justice by the non-appearance of grand and petit Jurors at the Courts of General Sessions of the Peace, Oyer and Terminer, Assize and General Goal Delivery, hereafter to be holden in this Province, and to enable the said Courts to proceed upon business in the absence of the Chief Justice, and for the better appointment of constables in this Province.

An Act for the better ordering and governing Negroes and other Slaves in this Province.

An Act for the better establishing and regulating Patrols.

Seventeen Hundred and Forty-one.

An additional Act to an Act entituled an Act for the better regulating Taverns and Punch Houses.

An Act rendering and making the office of a Constable more easy and less expensive to the persons appointed.

Section 9 of an Act for settling a Ferry on Santee river, in the way leading from Charlestown to Williamburgh, and for vesting the said Ferry in Joseph Murray, his executors, administrators and assigns, for

seven years; and to enable the Commissioners of the public roads near the said Ferry to lay out, make and keep in repair a road on each side of the said river, leading towards the said Ferry; and for declaring the road leading from Wadboo Bridge to Palmer's Ferry to be a private road; and for continuing the roads in the Parish of St. John, in Berkeley County, to the places therein mentioned.

Seventeen Hundred and Forty three.

An additional and explanatory Act to an Act entitled an Act to prevent Mariners and Seamen running into Debt, and to prevent the desertion of Seamen.

An Act to prevent Stealing of Horses and Neat Cattle, and for the more effectual discovery and punishment of such persons as shall unlawfully brand, mark or kill the same.

An Act for the better securing of this Province against the insurrections and other wicked attempts of negroes and other slaves; and for reviving and continuing an Act of the General Assembly of this Province entitled an Act for the better ordering and governing negroes and other slaves in this Province.

An Act to ascertain and regulate public officers' fees, and to repeal an Act of the General Assembly of this Province entitled an Act for ascertaining public officers' fees.

Seventeen Hundred and Forty-four.

An Act for regulating the making of dams or banks for reserving water, where the same may affect the propertys of other persons.

An Act for allowing Mutual Debts to be discounted, and for explaining the sixth paragraph of an Act entitled an Act for making more effectual Wills and testaments, and for making valid all former Wills in this Province, according to the tenor of the same, and for putting in force several useful matters therein comprised.

An Act for allowing the plaintiff or demandant in ejectment to bring more than one action for the recovery of any lands or tenements claimed within this Province, and for repealing the fourth paragraph of an Act entitled an Act for settling the Titles of the inhabitants of this Province to their possessions in their Estates within the same, and for limitation of actions, and for avoiding suits in law.

An Act for the further improvement and encouraging the produce of Silk and other manufactures in this Province, and to repeal an Act of the General Assembly entitled an Act to encourage the making of Hemp, passed the 23rd day of February, 1723, and for repealing such part of an Act of the General Assembly entitled an Act for the better regulating the Port and Harbor of Charlestown and the Shipping frequenting the same, as is therein mentioned.

An Act for the better securing the payment and more easy recovery of debts due from any person or persons inhabiting, residing, or being beyond the seas, or elsewhere without the limits of this Province, by attaching the moneys, goods, chattels, debts and books of account of such person or persons, if any he, she or they shall have within this Province;

and to impower and enable a *feme covert* that is a sole-trader, to sue for and recover such debts as shall be contracted with her as a sole-trader, and to subject such *feme covert* to be arrested and sued for any debt contracted by her as a sole-trader.

An Act for the better governing and regulating White Servants, and to repeal a former Act entitled "an Act for the better governing and regulating White Servants."

An Act to appoint persons to serve in Jurys, pursuant to the directions of an Act of the General Assembly, passed the twentieth day of August, in the year of our Lord one thousand seven hundred and thirty-one, entitled "an Act confirming and establishing the ancient and approved method of drawing Jurys by ballot in this Province, and for the better administration of justice in criminal causes, and for appointing of Special Courts for the tryal of the causes of transient persons, declaring the power of the Provost Marshal, for allowing the proof of deeds beyond the seas as evidence, and for repealing the several Acts of the General Assembly therein mentioned."

An Act to encourage the destroying beasts of prey.

An Act for the raising and levying the charges of conveying malefactors and offenders to goal, and for defraying the charges of criminal prosecutions; and for repealing the last paragraph of an Act of the General Assembly of this Province entitled "an Act for authorizing the General Court of Charles City and Port to exercise several powers and privileges allowed to the County and Precinct Court in this Province."

An Act for the more effectual relief of Insolvent Debtors, and for that purpose putting in force and effectually carrying into execution in this Province such part of an Act, made in the Parliament of Great Britain, in the second year of his present Majesty's reign, entitled an Act for relief of debtors, with respect to the imprisonment of their persons, as is hereinafter mentioned.

Seventeen Hundred and Forty-five.

An Act for continuing and amending of an Act entitled "An Act to prevent the further spreading of the infectious distemper amongst the Cattle in this Province," and for the amending and continuing such part of an Act entitled "an Act for the better ordering and governing Negroes and other Slaves in this Province," as is not amended, altered or repealed by this present Act.

An Act for enlarging the qualifications of the electors, as well as of the persons to be elected to serve as Members of the General Assembly of this Province.

An additional and explanatory Act to an Act of the General Assembly of this Province entitled "An Act for the more effectual relief of Insolvent Debtors, and for that purpose putting in force and effectually carrying into execution in this Province such part of an Act made in the Parliament of Great Britain, in the second year of his present Majesty's reign, entitled an Act for the relief of Debtors with respect to the imprisonment of their persons, as is hereinafter mentioned.

An Act to direct executors and administrators in the manner of returning Inventories and Accounts of their Testator and Intestate's estates, and to restrain the usual charges and commissions of such executors and administrators, and all other persons who shall be entrusted with the administration and management of minors's estates.

Seventeen Hundred and Forty-six.

An Act for laying Buoys and erecting and Supporting Beacons or Land Marks, near the Bar of the Harbor of Georgetown, Winyaw, and for building and repairing one or more Pilot Boat or Boats, to attend the Bar of the said Harbor, and for the better settling and regulating the Pilotage for the said Harbor.

An Act for the better establishing and regulating of Patrols in this Province.

An Act to prevent frauds and deceits in selling Rice, Pitch, Tar, Rosin, Turpentine, Beef, Pork, Shingles, Staves and Fire-wood, and to regulate the weighing of the several Commoditys and Merchandize in this Province.

Seventeen Hundred and Forty-seven.

An Act to impower his Excellency the Governor, or the Commander-in-Chief of this Province for the time being, and a majority of the members of his Majesty's honorable Council, who shall be in this Province, to hold a Court of Chancery for repealing the first and ninth paragraphs of an Act of the General Assembly of this Province, entitled an Act for establishing a Court of Chancery in this his Majesty's Province of South Caroliua, and for the preventing the discontinuance of process and the abatements of suits in the Courts of Justice.

An additional Act to an Act of the General Assembly of this Province entitled an Act for enlarging the qualifications of the Electors, as well as of the Persons to be elected to serve as Members of the General Assembly of this Province.

An Act for the better regulating the Militia of this Province, and for repealing an Act entitled an Act for the further security and better defence of this Province.

An Act for the tryal of Small and Mean Causes, and for repealing the several Acts now in force which relate to the recovery of small debts.

An Act to amend the sixth paragraph of an Act of the General Assembly of this Province, entitled an Act for the better governing and regulating white servants, and to repeal a former Act entitled an Act for the better governing and regulating white servants, and to prevent the embezzlement of Overseers.

An Act to impower two Justices and three Freeholders, or a majority of them, to determine in all actions of debt where the matter in dispute doth exceed twenty pounds current money, which is now equal to four pounds proclamation money, and is not more than seventy-five pounds current money, which is equal to fifteen pounds proclamation money.

Seventeen Hundred and Forty-eight.

An Act limiting the time for commencing Prosecutions for the Recovery of Penaltys and Forfeitures imposed by Acts of the General Assembly of this Province, the time not limited by such Acts.

An Act for prohibiting and preventing the Exportation of Corn, Pease, Small Rice, Flour and Biscuit from this Province, for the term therein mentioned.

An Act for impowering Persons to appoint Guardians to their Children, and for the easier obtaining partitions of Lands in coparcenary, joint tenancy, and tenancy in common, in this Province.

An Act for reducing of Interest from ten to eight by the hundred.

An Act for building and keeping in repair a Pilot Boat to attend the bar of the harbour of Beaufort, Port Royal, and for the better settling and regulating the pilotage of the said harbour.

Seventeen Hundred and Forty-nine

An Act for regulating the assize of Bread.

An Act to prevent frauds in making, packing and exporting Indigo.

Seventeen Hundred and Fifty.

An additional Act to the Acts of the General Assembly of this Province concerning Insolvent Debtors, and for the continuance of the said Acts.

Seventeen Hundred and Fifty-one.

An Act to appoint and establish new lists of Jurymen, to be drawn by ballot in this Province, and to impower the Courts of law to draw Jurors in cases therein mentioned.

An Act for suppressing and preventing of private Lotterys.

An additional Act to the several Acts of the General Assembly now of force in this Province which relate to insolvent debtors, and for impowering the Chief Justice, Public Treasurer, and Coroner of Berkley County, to set aside insolvent debtors that may happen to be drawn as Jurors, and for obliging the plaintiffs to pay the fees for insolvent debtors committed to the custody of the Provost Marshall.

An Act for the better restraining Seamen from absenting from their service, and for encouraging the apprehending and securing of Fugitive Seamen, and to discourage frivolous and vexatious actions at law being brought by Seamen against Masters and Commanders of Ships and other vessels.

An additional and explanatory Act to an Act of the General Assembly of this Province, entitled an Act for the better ordering and governing Negroes and other Slaves in this Province, and for continuing such part of the said Act as is not altered or amended by this present Act, for the term therein mentioned.

Seventeen Hundred and Fifty-two.

An Act for the better preventing of excessive and deceitful Gameing.

Seventeen Hundred and Fifty-three.

An Act to continue an Act entitled "An Act for the better regulating the Militia of this Province, and for repealing the former Acts for regulating the Militia, and for repealing an Act for the further security and better defence of the Province."

Seventeen Hundred and Fifty-four.

An Act to prevent the inveigling, stealing, and carrying away Negroes and other Slaves in this Province, and to prevent the carrying away of Schooners and Pettiaugers, and also for the repealing so much of an Act entitled "An act for the better ordering and governing Negroes and other Slaves in the Province," as relates to the time within which offenders that are apprehended shall be tried, and giving the Justices and Freeholders a power to postpone the trial of such offenders.

Seventeen Hundred and Fifty-six.

An Act to encourage the making of Flax and Hemp in the Province of South Carolina.

Seventeen Hundred and Fifty-eight.

An additional Act to the Acts for the better relief of the Poor of this Province.

Seventeen Hundred and Fifty-nine.

An Act for allowing of Discounts, and for repealing all former Acts and paragraphs of Acts, of the General Assembly of this Province, relating to Discounts.

An Act for preventing, as much as may be, the spreading of malignant and contagious distempers in this Province, and for repealing the former Acts and paragraphs of Acts heretofore made for that purpose.

An Act for the more effectual relief of insolvent debtors, and for that purpose putting in force, and effectually carrying into execution, in this Province, such part of an Act made in the Parliament of Great Britain, in the second year of his present Majesty's reign, entitled "An Act for the relief of Debtors with respect to the imprisonment of their persons," as is hereinafter mentioned; and to repeal the several Acts of Assembly now of force in this Province, for the relief of Insolvent Debtors.

An additional Act to an Act entitled "An Act to ascertain the manner and form of electing Members to represent the Inhabitants of this Province in the Commons House of Assembly, and to appoint who shall be deemed and adjudged capable of choosing or being chosen Members of the said House," passed the twenty-first day of September, in the year of our Lord 1721, and for repealing several clauses in the said Act.

An Act to supply the defects in evidence where Original Wills cannot be produced, and to make the proceedings upon questions arising upon such Wills more easy and effectual; and for repealing so much of the second clause of an Act for making more effectual last Wills and Testaments as contradicts or repeals the ninth clause of the Act against Bastardy.

Seventeen Hundred and Sixty.

An Act for preventing, as much as may be, the continuance of the Small Pox in Charlestown, and the further spreading of that distemper in this Province.

An Act to prevent the exportation of Grain and other Provisions, and Arms, Ammunition, Strouds, Duffils and Plains, from the Province of South Carolina.

Seventeen Hundred and Sixty-two.

An Act for building and keeping in repair a Pilot Boat, to attend the Bar and Harbour of Beaufort, Port Royal, and for the better settling and regulating the Pilotage of the said Harbour.

An Act for the better preventing of excessive and deceitful Gaming, and to prevent the occupiers of Licenced Public Houses, and other Houses wherein Liquors are sold, from suffering apprentices, overseers, journeymen, laborers and servants, from Gaming therein.

An additional Act to an Act entitled "An Act to encourage the making of Hemp."

An Act to regulate the Coasting Trade of this Province, and for impowering the Governor to appoint officers for preventing frauds and abuses therein, and to ascertain the places and times for shipping and discharging goods.

Seventeen Hundred and Sixty-four.

An Act for suppressing and preventing private Lotteries.

An Act for preventing, as much as may be, the spreading of the Small Pox.

Seventeen Hundred and Sixty-seven.

An Act for the more frequent holding of the Courts of General Sessions of the Peace, Oyer and Terminer, Assize, and General Goal Delivery, and to appoint and establish a new list of Jurymen, and to authorize and empower the Assistant Judges to take renunciations of dower from feme coverts.

Seventeen Hundred and Sixty-eight.

An Act to prevent stealing of Horses and Neat Cattle, and for the more effectual discovery and punishment of such persons as shall unlawfully brand, mark or kill the same.

An Act for regulating and ascertaining the rates of Wharfage of Ships and Merchandize, and also for ascertaining the rates of Storage, in Charlestown.

An Act for establishing Courts, building Goals, and appointing Sheriffs and other Officers, and for more convenient administration of justice in this Province.

Seventeen Hundred and Sixty-nine.

An Act to encourage the discovery and apprehending of House Breakers, and buyers and receivers of Stolen Goods.

An Act for the preservation of Deer, to prevent the mischiefs arising from hunting at unreasonable times.

Seventeen Hundred and Seventy.

An Act to encourage the making of Flax, Linens and Thread in this Province.

Seventeen Hundred and Seventy-one.

An Act for regulating the inspection and exportation of Tobacco and Flour, and for granting a bounty on Flour.

Seventeen Hundred and Seventy-six.

An Ordinance for establishing an Oath of Office, to be taken in manner therein mentioned.

An Act to prevent Sedition, and punish Insurgents and disturbers of the public peace.

An Act establishing a proper oath of qualification to be taken by the Members of the General Assembly; directing the method of choosing Parochial and District Committees; for authorizing the returning officers of the Parish of St. David to hold their elections one day at the Church and one day at the Court House; and for other purposes therein mentioned.

Seventeen Hundred and Seventy-seven.

An Act for the reduction of interest, from eight to seven pounds for each hundred pounds.

An Act for the more easy and expeditious obtaining the admeasurement of Dower to Widows of the lands of their deceased husbands.

An Act to prohibit the sale of Goods, Wares and Merchandizes, by Public Vendue, in this State.

Seventeen Hundred and Seventy eight.

An Act for the regulation of the Militia of this State, and for repealing such Laws as have hitherto been enacted for the Government of the Militia.

An Act for reviving and amending several Acts and Ordinances of the General Assembly of this State.

An Act for the better regulating of Pilots for the Ports and Harbours of Charlestown, Beaufort, Georgetown and Stono; and for other purposes therein mentioned.

An Act for amending an Act entitled "An Act for regulating and ascertaining the rates of Wharfage of Ships and Merchandize, and also for ascertaining the rates of Storage in Charlestown; and for repealing the first clause of the said Act.

An Ordinance for fixing the salaries of the different Public Officers of this State, and the time and manner of paying the same.

An Ordinance to oblige every person who shall be hereafter elected to serve as a member in the Senate or House of Representatives, to take and subscribe the Oath herein prescribed, previous to the taking of his seat therein.

An Ordinance to oblige all persons nominated as Magistrates, before they take upon them the execution of the said offices, to qualify before his Excellency the President or Governor and Commander-in-Chief, as the case may be, or before Commissioners duly authorized by him for that purpose.

Seventeen Hundred and Seventy-nine.

An Act for the alteration and amendment of an Act entitled "An Act for the regulation of the Militia of this State; and for repealing such laws as have been hitherto enacted for the government of the Militia."

Section 4 of an Act to revive and continue for the time therein mentioned, the several Acts and clauses of Acts of the General Assembly of this State therein particularly mentioned; and to appropriate certain penalties; and to confirm the power of Commissioners of Roads, Paths, Bridges, Creeks, Causeys and Water Passages.

Sections 9 and 10 of an Ordinance for appointing a new jury list for the District of Cheraws, and to empower any one of the judges, out of the same, to draw a grand, petit and common pleas jury, to serve at the Courts of General Sessions and Common Pleas, next to be holden for the said District, after the passing of this Ordinance; and for raising the fines for the non-appearance of jurors; and for other purposes therein mentioned.

An Ordinance to ascertain and regulate the fees of office of the Secretary, Clerk of the Court of General Sessions, Clerk of the Court of Common Pleas, Register of Mesne Conveyances, acting Magistrates and Constables, in this State.

Seventeen Hundred and Eighty-two.

An Act for the regulation of the Militia.

Seventeen Hundred and Eighty-three.

An Act to ascertain the weight and value of the several gold and silver coins in circulation in this State; and to punish persons who shall counterfeit or utter or attempt to pass the same, knowing them to be counterfeit.

An Act for the amendment of an Act commonly called the Attachment Act.

Section 3 of an Act to regulate the election and appointment of Commissioners of the high roads in the several Parishes and Districts of this State, and also to regulate the rates of ferriage at such ferries which are not established by law.

An Act for regulating trials in Courts of justice in this State, between the subjects of foreign nations in alliance or neutrality with the United States, and the citizens thereof; and for other purposes therein mentioned.

An Act for preventing the plundering and destroying vessels in distress, and for the more effectually securing shipwrecked and stranded property.

An Act for reviving and amending "An Act for preventing the spreading of malignant and contagious distempers," passed the seventh day of April, 1759.

Seventeen Hundred and Eighty-four.

An Act for establishing the mode and conditions of surveying and granting the vacant lands within this State.

An Act for establishing a Court of Chancery.

An Act to confer the rights of citizenship on Aliens.

An Act for the more effectually estreating forfeited recognizances into the Public Treasury of this State.

An Act to regulate the inspection and exportation of Tobacco of the growth and produce of this State, and for other purposes.

An Act to prevent the spreading of contagious distempers in this State.

An Act for reviving and amending an Act entitled "An Act to prevent stealing of horses and neat cattle, and for the more effectual discovery and punishment of such persons as shall unlawfully mark, brand or kill the same," passed April 12, 1768.

An Act to alter and amend the thirty-sixth clause of an Act of this State, commonly called the jury law, and for altering the time of holding the Courts of Sessions and Common Pleas.

An Act for the regulation of the Militia of this State.

An Ordinance respecting suits for the recovery of debts.

An Ordinance to encourage subjects of foreign States to lend money at interest on real estates within this State.

Seventeen Hundred and Eighty-five.

An Act for regulating the toll to be taken at the several grist mills throughout the State.

An Act to oblige persons interested in marriage deeds and contracts to record the same in the Secretary's Office of this State.

An Act for laying off the several Counties therein mentioned, and appointing Commissioners to erect the public buildings.

An Act for the more speedy and effectual enforcing the execution of decrees in the Court of Chancery.

An Act authorizing persons, appointed by the United States, to maintain actions within this State.

An Act to repeal part of an Act of the General Assembly, entitled "An Act to prevent the spreading of contagious distempers in this State," passed March 26, 1784.

An Act to regulate the admission of attornies at law.

An Ordinance for regulating the public vendues in this State, and for repealing part of an Ordinance entitled "An Ordinance for regulating all vendues in this State, and for raising supplies to Government," passed the 16th day of March, 1783.

An Act for regulating the inspection and exportation of Tobacco.

An Act for establishing County Courts, and for regulating the proceedings therein.

Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 34 and 35 of an Act for keeping in repair the several roads and bridges throughout this State; and for laying out the several new roads and ferries therein mentioned."

An Act to alter and amend an Act entitled "An Act for establishing the mode and conditions of surveying and granting the vacant lands within this State; and for other purposes therein mentioned.

An Act to alter and amend an Act entitled "An Act for establishing the mode and conditions of surveying and granting the Vacant Lands within this State," and another Act entitled "An Act to alter and amend an Act entitled an Act for establishing the mode and conditions of surveying and granting the Vacant Lands within this State, and for other purposes therein mentioned."

An Act for regulating sales under Executions; and for other purposes therein mentioned.

An Ordinance for preventing the clipping and filing of the Coin passing within this State by authority of the General Assembly.

An Ordinance for the preservation of Deer, and to prevent the mischiefs arising from fire-hunting.

Seventeen Hundred and Eighty-six.

An Act to amend an Act entitled "An Act for establishing County Courts, and for regulating the proceedings therein."

An Act for appointing Registers of Mesne Conveyances for the Districts of Beaufort and Georgetown.

An Act to regulate the opening of Dams across Rice Grounds, and the making and keeping up dams for Reservoirs of Water.

An Act to encourage the destroying Beasts of Prey.

An Act to alter and amend an Act for the more effectual relief of Insolvent Debtors.

An Act to secure the Credit of Bills of Exchange.

An Act for the more easy and expeditious obtaining the admeasurement of Dower to Widows, of the Lands of which their deceased husbands were seized in fee at any time during their Marriage.

An Ordinance respecting Silver and Copper Coin.

An Ordinance for establishing a County and County Courts in the new ceded lands on the north side of Saluda river.

An Act to confer certain Rights and privileges on Aliens, and for repealing the Acts therein mentioned.

An Act to authorize the Surveyor General and Register of Mesne Conveyances to occupy two rooms in the State House.

An Act for repealing the thirty-sixth clause of the Jury Law; and for other purposes therein mentioned.

Seventeen Hundred and Eighty-seven.

An Act concerning Estrays.

An Act for recovering Fines and Forfeited Recognizances into the Public Treasury.

An Act to authorize Executors to sell and convey Lands of their Testator, where no person or persons is or are expressly named for that

purpose; and in case such Executor or Executors should die or refuse to qualify, to authorize the Administrator or Administratrix with the Will annexed, to sell the Real Estate of the said deceased, as directed in and by the Will.

An Act for regulating and fixing the Salaries of several Officers, and for other purposes therein mentioned.

An Act to restrain particular persons therein described from obtaining Grants of Land; to make null and void certain Grants of Surplus Lands; to prevent Located Lands from being passed into Grants until the purchase money shall be paid; to compel persons who have obtained Grants to pay for the same within six months; and for other purposes therein mentioned.

An Act for the promotion of Industry, and for the suppression of Vagrants and other Idle and Disorderly Persons.

An Act to alter and amend an Act entitled "An Act for establishing county courts, and regulating the proceedings therein," passed the 17th day of March, 1785; and for other purposes therein mentioned.

An Act to Revise, Amend and Repeal the several Acts or clauses of Acts of the General Assembly herein mentioned.

An Act to appoint Escheators, and to regulate Escheats.

Seventeen Hundred and Eighty-eight.

Section 14 of an Act declaring the Powers and Duties of the Inquirers, Assessors, and Collectors of the Taxes, and other persons concerned therein.

An Act authorizing Justices of the Peace, where there are no County Courts established, to issue Attachments against the property of persons who are about to abscond or remove privately out of the State or District.

Sections 9 to 16, inclusive, of an Act to alter and amend the Act respecting the High Roads and Bridges, passed the twenty-second of March, one thousand seven hundred and eighty-five; and for laying out several new Roads, and establishing sundry Ferries, therein mentioned.

An Act to alter and amend the several County Court Acts.

An Act to establish the Bounds of the Prisons or Common Goals in the several Districts and Counties of the State.

An Act prescribing, on the part of this State, the times, places and manner of holding Elections for Representatives in the Congress, and the manner of appointing Electors of a President, of the United States.

An Act for preventing the Transportation of Convicted Malefactors from foreign countries into this State.

Seventeen Hundred and Eighty-nine.

An Act to alter the places of holding Elections for Members of the Legislature for the Parishes of St. James, Santee, Christ Church, Prince Frederick, St. Helena, All Saints, and St. George, Dorchester; and for other purposes therein mentioned.

An Act to remedy the defects of the Courts of Ordinary in the several Districts where there are no County Courts, as to matters and cases in which the Ordinaries of those Districts may be respectively interested.

An Act to revive and continue the Authority, Acts and Judicial Proceedings of the Court of Common Pleas, to be held in Charleston; and for other purposes therein mentioned.

An Act to establish a County and County Courts between Savannah and Saludy rivers above the old Indian boundary.

An Act directing the manner of granting Probates of Wills and Letters of Administration; and for other purposes therein mentioned.

An Act to vest in the Justices of the County Courts the powers and authorities of the Vestries and Churchwardens of Parishes, so far as the same relate to the Poor of the respective Counties wherein County Courts are established.

An Ordinance for the preservation of Deer; to prevent the mischiefs arising from Fire Hunting and Setting Fire to the Woods.

An Act to prevent persons holding certain Offices of Emolument from leaving the State

An Act to enlarge the time for the Recording of Mortgages and other Conveyances.

An Act concerning Estrays.

An Act for granting to the Circuit Courts complete, original, and final jurisdiction, and for regulating the same.

An Act to prevent the Stealing of Horses, Asses and Mules; and for the more effectual prevention of Stealing black or neat Cattle, Sheep, Goats, and Hogs; and for the punishment of those persons who shall unlawfully mark, brand, or kill the same; and for repealing the Acts relative to the same, passed February 17, 1704–5, April 12, 1768, and March 26, 1784.

Seventeen Hundred and Ninety.

Section 3 of an Ordinance to prolong the time of the sitting of the Court of Common Pleas next November, at Cambridge, and to oblige Sheriffs and Gaolers of the several counties where Courts are held, to receive any prisoners which may be committed to their charge.

An Ordinance prescribing, on the part of this State, the times, places and manner of holding Elections for Representatives in Congress.

An Act for ceding to and vesting in the United States the Light House on Middle Bay Island, within the Bar of Charleston Harbour.

Seventeen Hundred and Ninety-one.

An Act for establishing the Annual Salaries of the Public Officers of Government; and for ascertaining and regulating the Fees to be taken by those who by law may be entitled to them, throughout the State.

An Act for the abolition of the Rights of Primogeniture, and for giving an equitable distribution of the Real Estates of Intestates; and for other purposes therein mentioned.

An Act to establish a Court of Equity within this State.

An Act to amend the several Acts for establishing and regulating the Circuit Courts throughout this State.

An Act to amend the several Acts for establishing County Courts; and for regulating and amending the proceedings therein; and for suspending the County Courts in the districts of Orangeburgh and Beaufort; and ascertaining the duties of Justices of the Peace throughout the State.

An Act for establishing the mode of granting the Lands now vacant in this State, and for allowing a commutation to be received for some Lands that have been granted.

An Act for establishing an easier and cheaper mode of recovering money secured by mortgage on Real Estates; and barring the equity of redemption; and for abolishing the fictitious proceedings in the action of ejectment.

An Act authorizing the Inhabitants of the Elective Districts, where County Courts are not established, to choose Commissioners of the Poor.

An Act to suppress the pernicious practice, and prevent the evil consequences, of excessive and deceitful Gaming and Swindling, and other practices therein mentioned.

An Act to ascertain the jurisdiction of the Court of Wardens of the City of Charleston, in the cases therein mentioned.

An Act to establish a County and County Court in the District of Kershaw.

Section 25 of an Act for laying out certain Roads and establishing certain Ferries; and for other purposes therein mentioned.

An additional Act to the Act entitled "An Act to establish a Court of Equity within this State," passed the nineteenth day of February, seventeen hundred and ninety-one.

An Act to alter and amend the law respecting Juries, and to make some additional regulations to the Acts for establishing and regulating the Circuit Courts.

An Act to amend and more effectually put in force, for the time therein limited, the Act entitled "An Act for the regulation of the Militia of this State," passed the 26th day of March, 1784.

An Act to permit the exhibition of Theatrical Entertainments, under certain regulations.

Seventeen Hundred and Ninety-two.

An Act prescribing, on the part of this State, the time, place and manner of appointing Electors of a President and Vice President of the United States.

An Act to alter and amend the Act entitled "An Act to oblige persons interested in Marriage Deeds and Contracts to record the same in the Secretary's Office of this State."

An Act to alter and amend the several Acts for establishing and regulating the Circuit Courts throughout this State.

An Act relating to the recovery of Arrears and other Debts, Dues and Demands, owing to Bodies Corporate by their Members.

An Act to authorize the County Courts and Commissioners of the Roads to grant Licences for keeping Billiard Tables.

Sections 2 and 3 of an Act to ascertain the names by which the Villages wherein the District Courts are held in Pinckney and Washington Districts, shall be known in Law; and to provide uniform Seals for the several District Courts throughout the State; and to exempt the persons therein specified from Toll and Ferriage.

An Act prescribing, on the part of this State, the times, places and manner of holding Elections for Representatives in the Congress of the United States.

An Act to establish a new County, to be formed out of the Counties of Claremont and Clarendon; and for other purposes therein mentioned.

An Act to ascertain and fix the lines of division between the Counties of Kershaw and Lancaster, and also those between the said County of Kershaw and the County of Claremont, and between the said Counties of Kershaw and Richland.

An Act to alter the Line of Division between the Counties of Laurens and Greenville.

Section 46 of an Act for laying out certain Roads, establishing certain Ferries and Toll Bridges, and for other purposes therein mentioned; and also to continue in force the Laws for regulating the Militia of this State.

Seventeen Hundred and Ninety-three.

An Act for the Trial and Punishment of persons guilty of Murder or Manslaughter, and their accessaries, where the deceased may be wounded, poisoned or otherwise injured, in one District, and die thereof in another.

An Act for the election of Commissioners of the Poor in those Counties where County Courts are established.

An Act to enable the Circuit Court of Georgetown, at the ensuing Term, to meet on the twenty-eighth day of March next, instead of the first day of April; for extending the time for holding the Courts in Ninety-Six District; for the better advancement of justice in the Courts of Law and Equity; and for other purposes therein mentioned.

Seven'een Hundred and Ninety-four.

An Act to organize the Militia throughout the State of South Carolina, in conformity with the Act of Congress.

Section 4 of an Act to close the Land Office for and during the term of four years, under certain limitations; and for other purposes therein mentioned.

An Act for establishing the Salary of the Governor of this State, and the Salaries of other Public Officers; and for other purposes therein mentioned.

An Act to increase the number of Justices of the Peace in the several Counties throughout this State where County Courts are established.

An Act for compelling persons residing in this State to attend and give evidence under commission, in Suits depending in other States; and

also to compel persons to attend and give evidence under commissions issuing out of the Courts of this State, and to give evidence before Justices of the Peace, in causes within their Jurisdiction.

Seventeen Hundred and Ninety-five.

An Act to cede to the United States a proper place, upon North Island, whereon a Light House may be erected.

An Act to facilitate the conveyance of Real Estates.

An Act concerning the office of Sheriff.

An Act to enable the United States to purchase a quantity of Land in this State, not exceeding two thousand acres, for Arsenals and Magazines.

An Act to regulate the manner of keeping Public Accounts in this State.

An Act to revive and continue in force the Fee Bill, passed on the fourteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one, and for other purposes therein mentioned.

An additional Act to the Act entitled "An Act to organize the Militia throughout the State of South Carolina, in conformity with the Act of Congress," and for other purposes therein mentioned.

Section 48 of an Act for laying out certain Roads and establishing certain Ferries; and for other purposes therein mentioned.

An Act to provide for the maintenance of Illegitimate Children; and for other purposes therein mentioned.

Seventeen Hundred and Ninety-six.

An Act to enable Trustees to surrender their trusts, in the manner therein mentioned.

An Act to afford more ample security to such part of the property of the good citizens of this State as consists in neat Cattle.

An Act to cede to the United States the jurisdiction of a proper place, on North Island, whereon a Light House may be erected.

An Act to repeal so much of the Act entitled "An Act to alter and amend the law respecting Juries, and to make some additional regulations to the Acts for establishing the Circuit Courts," passed on the twentieth day of December, one thousand seven hundred and ninety-one, as relates to Special Juries.

An Act to prevent Debtors from purchasing repeatedly their own property at Sheriff's Sales, to the delay of their Creditors; and for the better regulation of Sheriff's and other sales at public auction.

An Act to amend an Act entitled "An Act to prevent the spreading of contagious distempers in this State."

An Act to remove Magistrates from their office for malpractice therein.

An Act to prevent appropriations of money otherwise than by an Act of the Legislature.

An Act for regulating the admission of Attornies and Solicitors to practice in the Courts in this State.

An Act to prevent the exportation of Bread and Flour, not merchantable; and for other purposes therein mentioned.

Section 33 of an Act to establish the Roads and Ferries therein mentioned; to prescribe certain regulations respecting roads; and for other purposes therein mentioned.

An Act more effectually to prevent Shopkeepers, Traders and others, from dealing with Slaves having no tickets from their owners; and for other purposes therein mentioned.

Seventeen Hundred and Ninety-seven.

An Act concerning the Cavalry and Artillery of this State, and for other purposes therein mentioned.

An Act to amend an Act entitled "An Act for the Abolition of the Rights of Primogeniture; for the giving an equitable distribution of the estates of intestates; and for other purposes therein mentioneh," passed the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one; also for regulating Sheriff's' Sales.

An Act to abolish the right of Trial by Special Jury, except by the consent of both parties.

An Act to authorize the Tax Collectors throughout the State to collect assessments for the poor.

An Act to amend the several Acts relative to the office and duty of a Coroner; and for settling the fines to be inflicted on Jurors who shall fail to attend after being duly summoned.

An Act to increase the price of License to Hawkers and Pedlers.

An Act to dispense with the frequent swearing of Jurors in civil causes.

An Act to cede to the United States the jurisdiction over a certain tract of Land on North Island, whereon a Light House may be erected.

An Act to amend the Law respecting Quarantines.

An Act to exempt the Clerk of the City Council, and the Clerk of the Court of Wardens, of Charleston, and the Clerks of the County Courts throughout the State, from serving as Jurors.

An Act to explain and amend the Act entitled "An Act for establishing an easier and cheaper mode of recovering Money secured by Mortgage on Real Estates; and barring the Equity of Redemption; and for abolishing the fictitious proceedings in the action of Ejectment."

Seventeen Hundred and Ninety-eight.

An Act to enable the Assignees of Bonds, Notes or Bills, to bring actions for the recovery of the same, in their own names.

An Act to amend an Act entitled "An Act to amend the several Acts relating to the office and duty of a Coroner, and for settling the fines to be inflicted on Jurors who shall fail to attend, after being duly summoned."

An Act to prevent certain Streets in Beaufort from being stopped or obstructed.

An Act to establish an uniform and more convenient System of Judicature.

Seventeen Hundred and Ninety nine.

An Act to protect Slaves, belonging to third persons, from being distrained for Rent not due by them.

An Act to oblige the Treasurers of this State to give security for the faithful discharge of the duties of their office.

An Act to appoint Commissioners to lay out Streets on Sullivan's Island; and for other purposes therein mentioned.

An Act to limit the period for which Justices of the Quorum and Justices of the Peace shall remain in office; and for other purposes therein mentioned.

An Act to revise and amend an Act entitled "An Act to establish an uniform and more convenient system of Judicature."

An Act granting the rights and privileges of Denizenship to Alien Friends, residing, or intending to remove, within the limits of this State.

An Act to regulate the pay of the Members of the Legislature, during their attendance upon the same; and also of the Circuit Solicitors.

An Act to explain an Act entitled "An Act to regulate the opening of Dams across Rice grounds, and the making and keeping up Dams for reservoirs of water," passed on the eleventh day of March, in the year of our Lord one thousand seven hundred and eighty-six; and for other purposes therein mentioned.

Section 16 of an Act to establish certain Roads and Ferries; and for other purposes therein mentioned.

An Act to enable the Agricultural Society of South Carolina to dispose of the Estate of the late Dr. John Delahowe, in the manner therein mentioned.

An Act to establish the office of a Comptroller of the Revenue and Finances of the State; and for other purposes therein mentioned.

An Act to authorize the Treasurers to pay certain persons therein mentioned, their annuities, and regulating payment to annuitants.

An Act supplementary to an Act entitled "An Act to establish an uniform and more convenient system of Judicature."

Eighteen Hundred.

Section 12 of an Act to establish certain Roads and Ferries; and for other purposes therein mentioned.

An Act further to revive and extend an Act entitled "An Act to prohibit the importation of Negroes until the first day of January, one thousand seven hundred and ninety-nine, until the first day of January, one thousand eight hundred and one," to the first day of January, one thousand eight hundred and three.

An Act to authorize and oblige the Keepers of Gaols in this State to receive, and keep in safe custody, all prisoners committed under the authority of the United States; and to oblige Sheriffs to provide blankets for criminals confined in their respective Gaols.

An Act to prevent Negro Slaves, and other persons of colour, from being brought into or entering this State.

An Act respecting Slaves, Free Negroes, Mulattoes and Mestizoes; for

enforcing the more punctual performance of Patrol duty; and to impose certain restrictions on the emancipation of Slaves.

An Act to legalize the several Juries drawn at the last Circuit Court at Chester District, to serve at the next Spring Circuit; and to prescribe the mode of giving the proceedings of the late County Courts in evidence in the Courts of Law and Equity in this State.

An Act in addition to the Militia Laws of this State.

An Act to alter and amend an Act entitled "An Act to prevent certain Streets in Beaufort from being stopped or obstructed," and to restrict the owners of lots on the front of the said streets from building thereon.

Eighteen Hundred and One.

An Act supplementary to an Act entitled "An Act to prevent Negro Slaves and persons of Colour from being brought into or entering this State."

An Act to prevent the forging and uttering, knowing the same to be forged, certain instruments in writing, therein mentioned.

An Act to establish the Office of Commissioner of Locations.

An Act to establish a Court of inferior jurisdiction in the City of Charleston, and to extend the jurisdiction of Magistrates throughout the State, except those resident in the City of Charleston.

An Act to vest in the Commissioners of the High Roads and Bridges, throughout the State, the sole right of granting and issuing Licences to Tavern Keepers, Retailers of Spirituous Liquors, and Keepers of Billiard Tables.

Sections 2, 3 and 4 of an Act to establish a College at Columbia.

An Act to establish the office of Comptroller General; to provide for the more punctual collection of Taxes and Debts due to the State; and for the better administration of the Public Revenues.

An Act to prevent Sheriffs from being proceeded against by Attachment or Rule of Court, after a certain time.

An Act to amend an Act entitled "An Act for regulating the admission of Attornies and Solicitors to practice in the Courts of this State."

Eighteen Hundred and Two.

An Act prescribing, on the part of this State, the times, places and manner of holding Elections for Representatives in the Congress of the United States.

An additional Act for the more effectual prevention of Gaming.

An Act to alter and amend an Act entitled "An Act to prevent Negro Slaves and persons of colour from being brought into or entering this State;" and also an Act supplementary to the Act aforesaid; and for other purposes therein mentioned.

An Act to prevent the unnecessary attendance of Witnesses in Courts of Justice.

Sections 2 and 3 of an Act authorizing the Commissioners for disposing of the public land in the town of Columbia to deliver up certain bonds therein mentioned, and to convey certain squares to the Trustees of the South Carolina College.

Eighteen Hundred and Three.

An Act supplementary to an Act entitled "An Act for declaring the powers and duties of the Enquirers, Assessors and Collectors of the Taxes, and of other persons concerned therein."

An Act to authorize the production of Office Copies of Grants in Evidence, under certain restrictions.

An Act appointing Commissioners to run out the lines of the several Election Districts therein mentioned; and to ascertain the dividing line between Orange and Winton Counties.

An Act to alter part of an Act entitled "An Act respecting Slaves, Free Negroes, Mulattoes and Mestizoes; for enforcing the more punctual performance of Patrol duty; and to impose certain restrictions on the emancipation of Slaves."

An Act to alter and amend the several Acts respecting the importation or bringing into this State, from beyond seas, or elsewhere, Negroes and other persons of colour; and for other purposes therein mentioned.

An Act to aid the establishment of the South Carolina College; and to amend an Act entitled "An Act to establish a College at Columbia."

An Act to alter and amend an Act entitled "An Act concerning Estrays."

Eighteen Hundred and Four.

An Act to establish four Circuits for the Courts in the upper districts of this State.

An Act to establish Williamsburgh County, according to its present limits, into a Circuit Court District.

An Act to erect and establish Lexington County into a Circuit Court District; and for other purposes therein mentioned.

An Act to increase the number of Justices of the Quorum and of the Peace in several of the Districts of this State.

Sections 2 and 3 of an Act to compel persons having any papers of the late County Courts, appertaining to the Office of Ordinary, to deliver the same to the respective Judges of the Courts of Ordinary.

Section 2 of an Act to raise supplies for the year one thousand eight hundred and four; and for other purposes therein mentioned.

Eighteen Hundred and Five.

An Act to supply the defects occasioned by the loss of the Great Seal of this State affixed to grants for land within the same.

Section 4 of an Act to ratify and confirm the acts and proceedings of persons heretofore acting as Trustees of the College of Columbia.

An Act to authorize the drawing of Juries for Williamsburgh District; and to carry into effect the Act of the Legislature entitled "An Act to erect and establish Lexington County into a Circuit Court District; and for altering the sitting of the Courts in Horry District;" and for other purposes therein mentioned.

An Act to fix the rates of storage of Cotton in Charleston.

An Act to enable Justices of the Peace and of the Quorum to compel the attendance of witnesses before them, in the trial of cases small and mean.

An Act to increase the compensation allowed to Sheriffs by Law, for the custody and dieting of their prisoners.

An Act to exempt the Officers and Clerks of the State and other Banks from serving as Jurors.

An Act for the punishment of certain Crimes against the State of South Carolina.

Section 2 of an Act to authorize the City Council of Charleston to ascertain and define the wards within that City; to appoint an Escheator; and for other purposes therein mentioned.

An Act for appointing Commissioners to ascertain and run out the dividing lines between Orange and Lewisburgh Counties, and also the lines between Orange County and Lexington District.

An Act to amend an Act entitled "An Act to appoint Escheators and to regulate Escheats."

Eighteen Hundred and Six.

An Act to alter and amend the several Acts heretofore passed regulating the admission of Attornies, Counsellors and Solicitors to practise in the Courts of Law and Equity in this State.

An Act to compel certain Officers of the State to deposit, for safe keeping, in the State Bank, the monies they have received, or may hereafter receive, in their respective official characters.

An Act to increase the number of Justices of the Quorum and of the Peace in several of the Districts of this State.

Eighteen Hundred and Seven.

An Act to alter and amend at Act entitled "An Act concerning the Cavalry and Artillery of this State; and for other purposes therein mentioned;" passed the 16th December, 1797.

An Act to authorize the different Boards of Commissioners of Roads throughout the State to have the fines and other monies due, or which may hereafter be due, to the said Boards of Commissioners (and heretofore collected by Constables) collected by Sheriffs.

An Act explanatory of former Acts relative to the mode of determining the seniority of Officers in the Militia of this State; and for other purposes therein mentioned.

An Act to alter the dividing line between Lexington and Orangeburg Districts.

An Act to increase the compensation of the Members of the Legislature, by Act.

An Act to legalize titles to real property derived from or through Aliens, and to enable Aliens, under certain conditions therein mentioned, to hold, convey and devise real property.

Sections 22 and 26 of an Act for the establishment of Roads, Bridges and Ferries, and for other purposes therein mentioned.

Eighteen Hundred and Eight.

An Act authorizing the more speedy recovery of Rent; and for other purposes therein mentioned.

An Act providing for carrying into operation the provisions of an Act amending the Constitution, and introducing a reform in the representation of this State, proposed by the last and ratified by the present Legislature.

An Act to authorize the citizens of this State, in the several Circuit Districts within the same, to elect, by ballot, the Sheriffs within their several and respective Districts.

An Act to vest in the Judges of the Courts of Common Pleas the powers appertaining to and exercised by the Courts of Equity, as to the appointment of Guardians, so far as may relate to the right of Minors in any estate to be divided under the Act passed in the year of our Lord 1791; and for other purposes amendatory of the laws.

An Act requiring the Major Generals of Militia of this State to cause one uniform system of evolutions to be adopted by the Cavalry within their respective divisions; for perfecting the several officers of Militia throughout this State in their military duty; and for other purposes therein mentioned.

An Act to make provision by law for any child or children that may be born subsequent to the making and executing the last will and testament of any person, but previous to the decease of such person; and amendatory of the Act abolishing the rights of primogeniture.

An Act compelling all Masters of Vessels lodging Seamen in the Gaols of the seaport towns, to give security for taking them away, and for their maintenance.

An Act to amend an Act entitled "An Act to cede to the United States various Forts, and Fortifications, and sites for the erection of Forts," passed the nineteenth day of December, 1805.

An Act to enable the Catawba Indians to make leases of their lands for life or lives, or term of years; and for other purposes therein mentioned.

Eighteen Hundred and Nine.

An Act for the apportionment of the Representation among the several Districts of this State.

An Act to provide for the more easy and expeditious administration of Justice in the Courts of this State.

An Act to diminish the cost of the Attorneys, Clerks and Sheriffs in certain cases at Law therein mentioned.

An Act to amend and explain the Militia laws of this State.

An Act to prevent individuals building or erecting houses or other buildings on the public squares, whereon the gaols and court houses in the several Districts are erected; and for other purposes therein mentioned.

An Act to amend an Act entitled "An Act to prevent the spreading of Contagious Distempers in the State," and also "An Act to amend the law respecting Quarantines."

An Act to prohibit the sale of Spirituous Liquors, or other articles, at or near the places assigned for divine worship.

Sections 23, 27, 28, 30 and 31 of an Act to establish certain Roads, Bridges and Ferries therein mentioned.

An Act to regulate the place or places for holding general Elections for members of the Legislature, in the election districts in this State, and for repealing all Acts relative thereto.

Section 31 of an Act to raise supplies for the year one thousand eight hundred and nine; and for other purposes therein mentioned.

Eighteen Hundred and Ten.

An Act to alter and amend an Act entitled "An Act for regulating the inspection and exportation of Tobacco; and for other purposes therein mentioned."

An Act to lessen the security required to be given by the Commissioners of Locations.

An Act to define and establish the compensation which Sheriffs shall in future receive for dieting Negroes confined in Gaol; and for other purposes therein mentioned.

An Act to increase the number of Justices of the Quorum and Justices of the Peace, in several Districts in this State.

An Act establishing a Court of Equity in and for the District of Beaufort; and for other purposes.

Section 14 of an Act to establish certain Roads, Bridges and Ferries; and for other purposes therein mentioned.

Eighteen Hundred and Eleven.

An Act to prevent any citizen of this State from being sent to Gaol, until he be heard by himself or counsel.

An Act to authorize the Commissioners of the Orphan House of Charleston to select the number of youths therein mentioned, from those educated and maintained on the bounty of that institution, who shall be allowed to complete their education at the South Carolina College.

An Act for regulating the Courts held by the Associate Judges of this State at the conclusion of their respective circuits, and of the Courts of Appeals held by the Judges of the Courts of Equity, within this State; and for other purposes therein mentioned.

An Act to prevent any person that now holds, or who may hereafter hold, the office of Ordinary of any District in this State, from practicing as an Attorney, Solicitor or Counsel, in any of the Courts, either of Law or Equity, within this State; and for other purposes therein mentioned.

Section 19 of an Act to establish certain Roads, Bridges and Ferries; and for certain purposes therein mentioned.

An Act to alter the time of the stated meetings of the Board of Trustees of the South Carolina College; and for other purposes therein mentioned.

Eighteen Hundred and Twelve.

An Act prescribing, on the part of this State, the times, places and

manner of holding Elections for Representatives in the Congress of the United States.

An Act to extend the provisions of an Act entitled "An Act to remedy the defects of the Court of Ordinary in the several districts where there are no County Courts, as to matters and cases in which the Ordinaries of those districts may be respectively interested," passed the seventh day of March, one thousand seven hundred and eighty-nine, to all the Circuit Court districts throughout the State.

An Act to prevent the pernicious practice of Duelling.

An Act to authorize and oblige the several Gaolers in this State to receive for safe keeping such person or persons as may be apprehended or may be in confinement according to law, in any district wherein the gaol or gaols now are, or may hereafter be, destroyed by fire or other accidents; and for other purposes therein mentioned.

An Act to increase the number of Justices of the Quorum and Peace in several Districts in this State.

An Act making it unnecessary for the Sheriffs of certain Districts herein mentioned, to advertise sales of property taken in execution in the public Gazettes.

An Act limiting the term of service of certain officers, who have heretofore held their offices during good behaviour; and for other purposes therein mentioned.

An Act to afford Landlords or Lessors an expeditious and summary mode of gaining re-possession from tenants or lessees, who shall hold over after the determination of their leases.

An Act to amend an Act entitled "An Act for regulating the admission of Attornies and Solicitors to practice in the Courts of this State."

An Act to alter and amend an Act entitled "An Act to enable the Catawba Indians to make leases of their lands, for life or lives, or terms of years; and for other purposes therein mentioned."

Eighteen Hundred and Thirteen.

An Act to amend "An Act for regulating the Courts held by the Associate Judges of this State, at the conclusion of their respective Circuits, and of the Courts of Appeal held by the Judges of the Courts of Equity within this State," passed the twenty-first day of December, in the year of our Lord one thousand eight hundred and eleven, by changing the day for holding the Courts; and for legalizing the Jury drawn for the next ensuing session of the Court in Colleton District.

An Act to alter and amend the Militia Laws of this State.

An Act to allow the United States to exercise jurisdiction for certain purposes over the land on which Fort Mechanic is erected, in the City of Charleston.

Sections 33, 34 and 52 of an Act to establish certain Roads, Bridges and Ferries; and for other purposes therein mentioned.

Sections 23, 27 and 35 of an Act to raise supplies for the year one thousand eight hundred and thirteen; and for other purposes therein mentioned.

Eighteen Hundred and Fourteen.

An Act to enable persons, hereafter, on petition to the Courts of Law or Equity in this State, to change their names; and for other purposes therein mentioned.

An Act to establish a Court of Equity for Edgefield district.

Section 3 of an Act to alter and amend the charter of the Bank of the State of South Carolina, so far as relates to the issuing of bills of a less denomination than one dollar; and for other purposes therein mentioned.

Section 27 of an Act to establish certain Roads, Bridges and Ferries; and for other purposes therein mentioned.

An Act to appropriate a sum of money, annually, for the purchase of a Library for the use of the Senate and House of Representatives of this State.

Section 25 of an Act to raise supplies for the year one thousand eight hundred and fourteen; and for other purposes therein mentioned.

Eighteen Hundred and Fifteen.

An Act to authorize Creditors holding the bodies of their Debtors in execution to discharge them, without impairing the binding efficacy of their judgments.

An Act for the organization of the Staff of the Militia of South Carolina; and for other purposes therein mentioned.

An Act to alter and amend the Militia Laws of this State.

An Act Supplemental to the Vendue Act, passed the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-five, giving the owners of property disposed of by Vendue Masters or Auctioneers, summary redress against them for the amount of the sales thereof.

An Act to authorize the collection of Interest on Judgments and Decrees, and to remove the necessity of frequent revivals thereof.

An Act for the prevention of Frivolous Appeals.

An Act to fix the value of lands in this State for Taxation; and for other purposes therein mentioned.

An Act for the creation of an additional Circuit, so as to prolong the Terms in the Districts of Charleston, Colleton and Beaufort; and for other purposes therein mentioned.

An Act to alter the manner of electing all District Officers, and to give the powers of electing the same to the people of their respective Districts.

An Act to enable the Trustees appointed to carry into effect the last will and testament of Dr. John De La Howe, to dispose of certain Real Estates of the said Testator in the manner therein mentioned.

An Act to authorize and empower the Superintendants of the Catawba Indians to institute actions for trespasses on their Land: and for other purposes therein mentioned.

Section 4 of an Act to make Appropriations for the year one thousand eight hundred and fifteen: and for other purposes therein mentioned.

Eighteen Hundred and Sixteen.

An Act the more effectually to prevent the pernicious practice of gaming.

An Act to make compensation to persons who shall serve as Common Plea and Petit Jurors and Constables, for their attendance at Courts.

An Act to alter and amend an Act entitled "An Act to limit the term of service of certain Officers who have heretofore held their offices during good behaviour, and for other purposes therein mentioned," passed the 17th day of December, 1812.

An Act to make all the Officers of the Militia of this State elective.

An Act to relieve the Judges from the necessity of giving separate opinions in appeal cases, and to provide for the publication of such opinions, for the information of the people.

An Act to secure the just rights of Mechanics, Handicrafts-men, and for other purposes therein mentioned.

An Act to enable Assignees of Judgments and Decrees to bring suit in their own names.

An Act to alter the times appointed for holding the Courts of Common Pleas and General Sessions in the Southern and South-eastern Circuits of this State.

An Act to increase the number of Justices of the Quorum and of the Peace in the Districts of Edgefield, Spartanburgh, and other Districts therein mentioned.

An Act to prohibit the importation of Slaves into this State from any of the United States; and for other purposes therein mentioned.

An Act to prohibit the issuing of Bills or negociable Notes under the denomination of one dollar; and for other purposes therein mentioned.

An Act to enable parties to suits in the Courts of Law and Equity in this State, to take the examination, by commission, of witnesses who are about to leave this State.

A Bill to alter the third Section of the tenth Article of the Constitution of the State of South Carolina.

Eighteen Hundred and Seventeen.

An Act to provide a more expeditious mode of disposing of such motions as may be made for New Trial, and in arrest of Judgment, and such points of Law as may be submitted to the Judges; and for other purposes therein mentioned.

An Act to establish the office of Civil and Military Engineer, for the service of the State; and for other purposes therein mentioned.

An Act to increase the penalties which are now by law inflicted on persons who deal or trade with negro slaves, without a license or ticket from their master or owner, or the person having charge of them.

An Act to compel satisfaction to be entered on judgments, mortgages and decrees.

An Act to regulate the Licensing of Physicians to practice; and for other purposes therein mentioned.

Section 1 and 2 of an Act to amend the several Acts incorporating the Banks of the State of South Carolina

An Act to amend an Act entitled "An Act to prohibit the importation of slaves into this State, from any of the United States," aad for other purposes therein mentioned.

An Act to provide for the maintenance in Gaol of Insolvent Debtors.

An Act to amend an Act entitled "An Act to afford Landlords and Lessors an expeditious and summary mode of gaining re-possession from Tenants and Lessees, who shall hold over after the determination of their leases."

An Act to increase the Salaries of the Governor of this State, and other officers therein mentioned.

Section 9 of an Act to incorporate the several Societies, and for other purposes therein mentioned.

An Act to enable the City Council of Charleston to carry into more complete effect the Quarantine Laws.

An Act to authorize the Judges of the Courts of Law or Equity, to order and appoint, from time to time, a special court in the several districts of this State; and for other purposes therein mentioned.

An Act to exempt the Officers of the Custom House, in the City of Charleston, from serving on Juries.

Eighteen Hundred and Eighteen.

An Act to enlarge the jurisdiction of the inferior City Court of Charleston.

An Act to give the Judges of the Court of Sessions and Common Pleas the same authority to grant Writs and hear and determine Motions at Chambers, as they now have in open Court; and for other purposes therein mentioned.

An Act to authorize and require Juries empannelled in Charleston District to sit in certain cases beyond the term of one week, for which they are usually empannelled.

An Act to repeal so much of the fourth Section of the Act of 1769, as authorizes the Governor and Commander-in-chief, in certain cases, to appoint and commission persons to hold the Courts of sessions and common pleas.

An Act to empower the Managers of Elections hereafter to be held to administer to each other the oath prescribed by law to be taken before entering upon the duties of their appointment; and to prescribe the mode of filling vacancies when they occur.

An Act to increase the number of places of Elections, now limited by Law, for the Elections of Colonels and Majors in each Regiment or Battalion throughout the State; and for other purposes therein mentioned.

An Act to repeal the Act passed at December session, in the year one thousand eight hundred and sixteen, and the amendatory Act thereto, passed at December session, one thousand eight hundred and seventeen, prohibiting and restricting the bringing of negroes into this State from the sister States.

Sections 11, 15 and 16 of an Act to raise supplies for the year one

thousand eight hundred and eighteen; and for other purposes therein mentioned.

Eighteen Hundred and Nineteen.

An Act prescribing the mode of qualifying Justices of the Quorum and Justices of the Peace, in the several Districts in this State.

An Act to apportion the Representation of this State.

Section 19 of an Act to establish certain Roads, Bridges and Ferries.

An Act to alter and amend an Act entitled "An Act limiting the term of service of certain Officers, who have heretofore held their offices during good behaviour," and for other purposes therein mentioned.

An Act to provide for the more effectual performance of Patrol Duty.

An Act to establish a Board of Public Works.

Section 4 of an Act to amend an Act entitled "An Act to incorporate the village of Moultrieville, on Sullivan's Island."

Section 15 of an Act to raise supplies for the year one thousand eight hundred and nineteen; and for other purposes therein mentioned.

Sections 14 and 15 of an Act to make Appropriations for the year one thousand eight hundred and nineteen; and for other purposes therein mentioned.

Eighteen Hundred and Twenty.

An Act to increase the number of Justices of the Quorum and Peace, for certain Districts in this State; and for other purposes therein mentioned.

An Act to increase the security of Sheriffs of certain Districts within this State.

An Act to restrain the emancipation of Slaves, and to prevent free persons of color from entering into this State; and for other purposes.

An Act to amend an Act entitled "An Act to enlarge the jurisdiction of the Inferior City Court of Charleston."

An Act to authorize the Governor to appoint a Physician to attend on the Gaol in Charleston, and the Magazine Guard in Saint Philip's Parish; and for other purposes therein mentioned.

An Act concerning the bonds for the faithful performance of duties to be given by certain Public Officers of this State.

Eighteen Hundred and Twenty-one.

An Act respecting the Master and Commissioners in Equity; and for other purposes.

An Act to increase the punishment inflicted on persons convicted of murdering any Slave; and for other purposes therein mentioned.

An Act to provide more effectually against the offence of harbouring Negro or other Slaves.

An Act to prevent fraudulent confessions of Judgments, and to facilitate the confession of Judgment by the consent of parties.

An Act to limit the number of Justices of the Quorum and of the Peace, in the different Parishes, Counties and Districts within this State.

An Act to regulate the appointment of Coroners.

An Act to relieve the inhabitants of certain Islands on the Sea coast, from the operation of the road law in certain particulars.

Sections 31, 32, 36 and 43 of an Act to establish certain Roads, Bridges and Ferries.

An Act to increase the jurisdiction of the City Court of Charleston.

Section 11 of an Act to raise supplies for the year one thousand eight hundred and twenty-two [one]; and for other purposes therein mentioned.

Eighteen Hundred and Twenty-two.

An Act for the better regulation and government of free negroes and persons of color; and for other purposes.

An Act to compel all persons who voluntarily offer to do the duty of Constables, to give security; and for other purposes.

An Act to inflict corporal punishment on such persons as may hereafter be convicted of fraudulently packing Cotton; and for other purposes therein mentioned.

An Act to protect Banks, and the holders of Bills and Notes, from frauds.

An Act prescribing, on the part of this State, the times, places and manner of holding elections for Representatives in the Congress of the United States.

An Act to amend an Act entitled "An Act to authorize the citizens of this State, in the several Circuit Districts within the same, to elect by ballot the Sheriffs within the several and respective districts."

An Act concerning the Internal Improvement of the State.

Sections 20, 29 and 51 of an Act to establish certain Roads, Bridges and Ferries; and for other purposes.

Eighteen Hundred and Twenty-three

An Act to explain and amend an Act entitled "An Act to prevent the pernicious practice of Duelling."

An Act to repeal an Act entitled "An Act supplementary to the vendue Act, passed the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-five, giving the owners of property disposed of by vendue-masters or auctioneers, summary redress against them for the amount of the sales thereof."

An Act to authorize office copies of Wills, in certain cases, to be given in evidence.

An Act concerning the Seal of the State.

An Act to alter and amend the Law in relation to the action of trespass to Real Estate.

An Act to provide a remedy at Law in cases of joint contract, where one or more of the contracting parties who ought to be made defendants, reside out of the limits of the State.

An Act to regulate the mode in which married women shall become Sole Traders or Dealers; and for other purposes.

Sections 16, 17, 48 and 51 of an Act to establish certain Roads Bridges and Ferries.

An Act to prohibit Sheriffs and their Deputies, under certain penalties, from purchasing executions lodged in their offices; and for other purposes therein mentioned.

Section 21 of an Act concerning the Canals of this State, and for protecting and maintaining the same; and for other purposes therein mentioned.

An Act to require the Officers of each Brigade of Militia to assemble in Brigade Encampments; and for other purposes.

An Act the more effectually to prohibit free negroes and persons of colour from entering into this State: and for other purposes.

An Act to cede to the United States, the jurisdiction of this State, over a piece of land at Hadrel's Point, for the erection of a Beacon.

Sections 11 and 12 of an Act to make appropriations for the year one thousand eight hundred and twenty-three; and for other purposes.

Eighteen Hundred and Twenty-four.

An Act to repeal the 48th Section of an Act entitled "An Act to establish certain Roads, Bridges and Ferries," passed the twentieth day of December, one thousand eight hundred and twenty-three.

An Act to amend the Law in certain particulars.

An Act to revise and amend the Judiciary System of this State.

An Act for the amendment of the Law in divers particulars therein mentioned.

An Act to authorize the payment of Grand Jurors, and to increase and render exclusive the jurisdiction of Magistrates in Civil Cases.

Section 50 of an Act to establish certain Roads, Bridges and Ferries.

Sections 1, 2, 8, 11 and 13 of an Act concerning the State Roads, and for preserving and protecting the same.

An Act to repeal the first Section of an Act entitled "An Act to require the Officers of each Brigade of Militia to assemble in Brigade encampments and for other purposes," passed the twentieth day of December, eighteen hundred and twenty-three; and for other purposes.

An Act making it necessary for the Sheriffs of certain Districts herein mentioned, to advertise sales of property taken in execution, in the public gazettes.

An Act to protect the purity and punish the abuses of the elective franchise in the city of Charleston and other parts of the State; and for other purposes therein mentioned.

An Act to give Jurisdiction to the Judges of the Courts of Ordinary, throughout the State, to order the sale or division of real estates, not exceeding a certain value.

Sections 7, 8 and 9 of an Act to make appropriations for the year one thousand eight hundred and twenty-four; and for other purposes.

Eighteen Hundred and Twenty-five.

An Act to give to the Coroner of each District, a room in the Gaol of such District, for the confinement of all persons legally in his custody.

An Act to amend "An Act the more effectually to prohibit free negroes and persons of color from entering into this State; and for other purposes."

An Act to give to the City Court of Charleston concurrent jurisdiction with the Court of Common Pleas, in suits on certain mercantile contracts to any amount.

An Act to amend an Act entitled "An Act to revise and amend the judiciary system of this State; and for other purposes."

An Act to alter and amend an Act entitled "An Act to establish a College at Columbia."

An Act to reduce all the Acts and clauses of Acts of the General Assembly of this State, relating to the powers and duties of the Commissioners of the Roads, into one Act.

Section 6 of an Act concerning the Canals of this State; and for other purposes.

Sections 30, 31 and 32 of an Act to incorporate certain Societies.

An Act to increase the number of Justices of the Peace and of the Quorum in the district of Fairfield.

Eighteen Hundred and Twenty-six.

An Act to give to the City Council of Charleston the power to regulate the measuring of Grain sold within the limits of that corporation.

An Act to require the Registers of Mesne Conveyances to give security for the faithful performance of the duties of their offices.

An Act to vest in the Commissioners of the poor certain powers heretofore exercised by the Vestries and Church wardens and Overseers of the Poor.

An Act to make the fraudulent and secret taking of Cotton, Corn, and other grain, before severance from the soil, Larceny.

An Act to alter and amend an Act entitled "An Act for the abolition of the rights of Primogeniture, and for giving an equitable distribution of the real estate of intestates, and for other purposes therein mentioned," passed the nineteenth day of February, in the year of our Lord one thousand seven hundred and ninety-one.

An Act to increase the number of Justices of Quorum and of the Peace in the several districts within this State.

An Act to reduce the fees of the Sheriffs for dieting Slaves.

Sections 22, 23 and 28 of an Act to establish certain Roads, Bridges and Ferries.

An Act to alter and amend an Act entitled "An Act to alter the manner of electing all District Officers, and to give the power of electing the same to the people of their respective districts."

Eighteen Hundred and Twenty-seven.

An Act establishing the principles on which companies shall be in-

corporated, and the charters of Ferries, Bridges and Turnpike Roads shall be hereafter granted; and for other purposes therein expressed.

An Act requiring the several Clerks of the Courts of Sessions to issue all executions and other process of the said Courts.

An Act to amend the Quarantine Regulations.

An Act to increase the amount of Bonds to be given by certain Sheriffs of this State.

Section 6 of an Act to incorporate certain Societies.

An Act to prevent the recovery of debts contracted for ardent spirits spirits sold under a certain measure.

An Act to authorize the Clerks of Courts to grant all writs of dedimus potestatem.

An Act regulating the mode in which ranging Timber and sawed Lumber, sold in market, shall be measured.

An Act to provide for the repairing of Court Houses and Jails in this State.

An Act to carry into operation the Lunatic Asylum.

An Act to prevent the frequent renewal of Executions; and for other purposes.

An Act for the better administration of justice in the trial of causes small and mean, within the Parishes of St. Philip's and St. Michael's; and for other purposes therein mentioned.

An Act to regulate Fences.

An Act to regulate the fees of the Officers of the Courts of Law and Equity in this State; and for other purposes therein mentioned.

An Act to regulate the sittings of the Court of Appeals; and for other purposes.

An Act to alter the Law in relation to the action of Trover; and for other purposes.

An Act to authorize certain persons therein described to plead and practice as attorneys and solicitors, in the Courts of Law and Equity in this State.

An Act to regulate the election of Sheriffs throughout this State in certain cases; and for other purposes.

An Act to prevent obstructions to the passage of fish up the several Rivers of this State.

Eighteen Hundred and Twenty-eight.

An Act to amend an Act entitled "An Act to regulate the election of Sheriffs throughout this State, in certain cases, and for other purposes;" passed the nineteenth day of December, one thousand eight hundred and twenty-seven.

An Act to regulate the election of Cavalry and Artillery officers throughout this State.

An Act to reduce the salaries of the several officers of this State; and for other purposes.

An Act to amend the Law in relation to acts done bona fide under Powers of Attorney, and other authorities, after the death of the princi-

pal, and as to bills and notes passed away bona fide after the death of the drawer or indorser.

An Act to define and establish the Gaol bounds for the district of Charleston.

An Act to increase the amount of the bonds to be given by certain Tax Collectors in this State.

An Act to amend the Escheat Laws, in relation to the Widows of citizens of this State.

An Act regulating assignments of debtors.

An Act to alter and amend an Act entitled "An Act to regulate the licensing of Physicians to practice; and for other purposes therein mentioned.

An Act to prevent the burning of houses and buildings, and other property therein mentioned, in the day time.

An Act concerning the Public Works of the State.

Eighteen Hundred and Twenty-nine.

An Act concerning the Public Works.

An Act to amend an Act entitled "An Act to carry into operation the Lunatic Asylum."

An Act concerning the Bonds of Public Officers.

An Act to apportion the Representation of this State.

An Act for the Regulation of Magistrates and Constables, in the Parishes of St. Philip and St. Michael.

An Act to regulate the Collection of Military Fines; and for other purposes.

An Act for the punishment of official misconduct of District Officers.

An Act concerning Fish Traps.

An Act to punish the receivers of Stolen Goods.

An Act to authorize Sheriffs to make Titles to property sold by their predecessors in office.

An Act to withdraw the management of the Estate of Doctor John De La Howe from the Abbeville Delegation, and to commit it to Trustees.

Eighteen Hundred and Thirty.

An Act to alter and amend the Laws in relation to Interest and Usury.

An Act concerning the public works.

An Act to authorize the Commissioners of the Poor to bind to service illegitimate children.

An Act to enlarge the powers and increase the duties of the Masters and Commissioners in Equity in this State.

Section 9 of an Act to establish certain Roads, Bridges and Ferries.

Section 4 of an Act to renew the charter of the Planters' and Mechanics' Bank, and of the Union Bank of South Carolina.

An Act to alter and amend the law against horse stealing.

An Act for the further regulation of Magistrates and Constables of the Parishes of St. Philip's and St. Michael's.

Eighteen Hundred and Thirty-one.

An Act to alter the law in relation to the place of holding Sheriff Sales for the Judicial District of Georgetown.

An Act concerning free persons of color, and slaves; and for other purposes.

An Act to extend the jurisdiction of Magistrates in case of attachment.

An Act to amend an Act entitled "An Act to authorize the Commissioners of the Poor to bind to service illegitimate children."

An Act to amend an Act entitled "An Act concerning Hawkers and Pedlars."

An Act to vest in the proprietors of any Bridge which may be destroyed by freshets, or otherwise, a right of ferry during the time the bridge is rebuilding.

Sections 10 and 11 of an Act to incorporate certain Societies; and for other purposes.

An Act to enable Officers of the Militia to reside, in certain cases, out of their commands.

An Act concerning the Lunatic Asylum.

An Act to extend the Prison Bounds for the Judicial District of Georgetown.

An Act to regulate the practice of the Courts of Law in certain cases.

An Act concerning the compensation of Jurors and Constables.

An Act to suspend the Election of Members to Congress from this State.

An Act to amend the Acts regulating the elections of Members of the Legislature and others; and for other purposes therein mentioned.

Eighteen Hundred and Thirty-two.

An Act further to alter and amend the Militia Laws of this State.

An Act to give the Judicial Magistrates of Charleston exclusive right to sit on Courts for the trial of slaves and other persons of color.

An Act to increase the number of Justices of the Quorum and of the Peace for certain Districts.

An Act to repeal an Act entitled "An Act to suspend the Election of Members of Congress from this State," and to prescribe the time of holding the next Election.

An Act regulating the practice of the Court of Appeals.

Section 7 of an Act to incorporate the Medical College in South Carolina.

An Act to enlarge and extend the powers of the Governor and of the City Council of Charleston over Quarantine; and for other purposes.

An Act concerning Marriage Settlements and Parol Gifts.

Eighteen Hundred and Thirty-three.

An Act to alter the tenure of the Oordinary's Office, and to provide for his giving security.

An Act concerning Perjury.

An Act to vest certain squares and lots of woodland, in the town of Columbia, in the Trustees of the South Carolina College.

An Act for the further regulation of Magistrates and Constables in the parishes of St. Phillip's and St. Michael's.

An Act to prolong the terms of the Court of Equity for certain Districts.

An Act abolishing certain punishments, and amending the law for the trial of slaves and free persons of color.

An Act to amend the Act of one thousand seven hundred and eighty-eight, commonly called the Prison Bounds Act.

Section 3 of an Act concerning some of the Public Works.

An Act to vest in the Trustees and Faculty of the Medical College of the State of South Carolina, power to grant licences to practice Medicine and Surgery and to vend Drugs.

Eighteen Hundred and Thirty-four.

An Act to authorize the appointment of a Commissioner, or Commissioners, to take the acknowledgment of Deeds and other instruments of writing under seal; and for other purposes.

An Act to amend an Act entitled "An Act concerning the bonds for the faithful performance of duties by certain Public Officers of this State," passed on the 20th day of December, in the year of our Lord 1820; and for other purposes.

An Act to regulate the printing and distribution of the Acts and Resolutions of the General Assembly of this State; and for other purposes.

An Act to increase the punishment for Grand Larceny.

An Act to amend an Act entitled "An Act to appoint Escheators and to regulate Escheats."

An Act to amend an Act entitled "An Act to provide for the military organization of this State," passed on the nineteenth day of December, eighteen hundred and thirty-three; and for other purposes.

Section 16 of an Act to establish certain Roads, Bridges and Ferries.

An Act for the regulation of the Pensioners of this State.

An Act to regulate the office of Comptroller General.

An Act to provide for the education of the Deaf and Dumb children of this State.

An Act to amend the Laws in relation to slaves and free persons of color.

An Act to alter and amend an Act entitled "An Act to prevent the pernicious practice of Duelling," passed on the eighteenth day of December, one thousand eight hundred and twelve.

An Act to alter and amend an Act entitled "An Act abolishing certain punishments, and amending the Law for the trial of slaves and free persons of color," passed on the 19th day of December, 1833.

An Act more effectually to prevent the illicit traffic in Cotton, Rice, Corn or Wheat, with slaves and free persons of colour.

Eighteen Hundred and Thirty-five.

An Act to reform and amend the Judiciary System of this State.

An Act more effectually to prevent Free Negroes and other persons of color from entering into this State; and for other purposes.

An Act to alter and amend the fourteenth Section of an Act entitled "An Act to provide for the more effectual performance of Patrol Duty," passed on the eighteenth day of December, in the year of our Lord one thousand eight hundred and nineteen.

An Act to amend the Pension Law of this State.

An Act to amend the Law in relation to granting Licenses to retail Spirituous Liquors; and for other purposes.

An Act to amend an Act entitled "An Act concerning Hawkers and Pedlars," passed on the seventeenth day of December, in the year of our Lord one thousand eight hundred and thirty-one.

Section 9 of an Act to incorporate certain Towns and Villages; to amend the Charters of certain other Villages; and to incorporate certain Societies.

Eighteen Hundred and Thirty-six.

An Act to increase the jurisdiction of the City Court of Charleston; and for other purposes.

An Act to organize the Courts of this State.

Section 4 of an Act establishing a line beyond which the Wharves shall not be extended in the City of Charleston; and for other purposes.

An Act to increase the pay of Grand and Petit Jurors.

An Act to alter and amend the Pension Law of this State.

An Act to increase the penalty for giving a ticket or permit to any Slave, under certain circumstances.

An Act requiring Magistrates and other Officers to return recognizances and other documents for the Courts of Sessions; and for other purposes.

An Act concerning Vagrants.

An Act to amend the Law as to insolvent Debtors.

An Act to prevent the harboring of deserted Seamen, and to protect Sailors from the fraudulent practices of their Landlords.

An Act to provide for the Election of Tax Collectors by the People.

An Act to alter and amend the Law in relation to Magistrates and Constables, within the Parishes of St. Philip and St. Michael; and for other purposes therein mentioned.

Eighteen Hundred and Thirty-seven.

Section 2 of an Act to alter and amend the Law in relation to Fish Sluices, on the Catawba and Wateree rivers; and for other purposes.

An Act to authorize the United States to purchase a certain quantity of Land in this State, for the erection of Light Houses, Beacon Lights, and for other purposes.

An Act to provide punishment for the negligent management of Steam Boats.

An Act to punish the abduction of Free Persons of Color.

An Act to alter the time of the sittings of the Courts of Law and Equity, in some of the districts of this State.

An Act to increase the pay of Constables for attending at Court.

An Act to amend the Law in relation to the harbouring of deserted Seamen.

An Act concerning the District Officers and their Offices.

An Act to authorize the formation of Limited Partnerships.

Eighteen Hundred and Thirty-eight.

An Act to define the terms upon which the State will aid in the construction of Turnpike roads.

An Act to amend the tenth Section of an Act giving Masters and Commissioners in Equity the power to grant Injunctions.

An Act to increase the penalties of Bonds required from the Sheriffs and Ordinaries for the District of Marlborough.

An Act to repeal the penalties heretofore imposed upon the practice of Physic or Surgery, and sale of Drugs, without License.

An Act to provide for the election of Tax Collectors for each of the districts of Anderson and Pickens.

An Act to amend the Act entitled "An Act to prevent obstructions to the passage of Fish up the several rivers of this State," passed on the nineteenth day of December, eighteen hundred and twenty-seven.

An Act to vest the reversionary interest of this State in the Catawba Indian Lands, in the Lessees thereof; and to secure the sustenance and support of the remnant of the tribe of Catawba Indians.

Eighteen Hundred and Thirty-nine.

An Act to regulate the Fees of Clerk, Ordinary and Sheriff.

An Act to apportion the Representation of this State.

An Act concerning the Office and Duties of Magistrates.

An Act prescribing the mode of Electing Clerks, Sheriffs and Ordinaries.

An Act concerning the Office, Duties and Liabilities of Sheriff.

An Act concerning the Office and Duties of Ordinary.

An Act concerning the Office, Duties and Liabilities of Coroner.

An Act to regulate the Office of Constable.

An Act to reduce all Acts and clauses of Acts, in relation to the Patrol of this State, into one Act, and to alter and amend the same.

An Act concerning the right of Executors and Administrators to purchase property at their own Sales.

An Act to provide a remedy in certain cases of debts not due.

An Act concerning the Office and Duties of Clerks, Registers of Mesne Conveyances, and Commissioners of Locations.

An Act to prohibit the Digging of Cellars, in future, within the limits of Towns on the Sea Board.

Eighteen Hundred and Forty.

An Act to provide against the suspension of Specie Payments by the Banks of this State.

An Act to regulate the fees of Sheriffs, Magistrates and Constables, and certain fees of Clerks.

An Act to fix the number of Magistrates for each District and Parish in this State.

An Act to constitute as Magistrates certain Public and Municipal Officers heretofore invested with the powers of Justices of the Quorum, *ex officio.*

An Act to ascertain and define the powers, duties and liabilities of Masters, Commissioners and Registers in Equity, and to provide for the organization and regulation of their respective offices.

An Act to alter the liability of Sheriff, and for other purposes.

An Act to provide Weights and Measures in each District.

An Act to alter and amend the Militia Laws of this State.

An Act to amend an Act entitled "An Act to reduce all Acts and clauses of Acts, in relation to the Patrol of this State, into one Act, and to alter and amend the same," passed on the 21st day of December, 1839.

An Act to enlarge the powers of the Recorder of the City of Charleston, and for other purposes.

Eighteen Hundred and Forty-one.

An Act to prevent the citizens of New York from carrying Slaves, or persons held to service, out of this State, and to prevent the escape of Persons charged with the commission of any crime.

An Act to extend the Bounds of the Jails of the several Judicial Districts of this State.

An Act to extend the right of challenge to Jurors.

An Act to prevent the emancipation of Slaves, and for other purposes.

An Act to make the unlawful whipping or beating of a Slave an indictable offence.

An Act to further regulate the Offices of Comptroller General and Treasurer of this State.

An Act to amend an Act entitled "An Act to provide for the repairing of Court Houses and Jails in this State," passed the nineteenth December, one thousand eight hundred and twenty-seven.

Sections 20, 21 and 22 of an Act to establish certain Roads, Bridges and Ferries.

An Act to provide against Trespassers on the Saluda Mountain Turnpike, and to punish Trespassers.

Section 41 of an Act to incorporate certain Villages, Societies and Companies, and to renew and amend certain Charters heretofore granted, and to establish the principles on which charters of incorporation will hereafter be granted.

An Act to reduce all Acts and clauses of Acts, in relation to the Militia of this State, to one Act, and to alter and amend the same.

Eighteen Hundred and Forty-two.

An Act to organize this State into Districts for the Election of Representatives in the Congress of the United States, and for other purposes

An Act to amend an Act entitled "An Act to prevent the citizens of New York carrying slaves or persons held to service out of this State, and to prevent the escape of persons charged with the commission of any crime," passed on the 17th day of December, 1841.

An Act to alter and amend the one hundred and twenty-first Section of an Act entitled "An Act to reduce all Acts and clauses of Acts, in relation to the patrol of this State, into one Act, and to alter and amend the same."

An Act to alter and amend the fifteenth Section of an Act entitled "An Act to reduce all Acts and clauses of Acts, in relation to the patrol of this State, into one Act, and to alter and amend the same"

An Act to re-organize the Courts of Law of this State, and to alter the times of sitting of the Courts of Appeals and the Court of Errors, and also of the Courts of Equity in certain Districts of the State.

An Act to authorize copies of certain Deeds, Leases and Plats, deposited in the office of the Secretary of State, to be used as evidence in the Courts of this State.

An Act further to prevent the retailing of Spirituous Liquors without a License.

An Act to authorize and empower the Commissioners of Public Buildings of the several Districts to furnish necessary clothing for the Prisoners in the Jails of their respective Districts.

An Act to give to the Ordinary, in certain cases, the power to pay over to an Administrator or Executor, the proceeds of the sale of Real Estate.

An Act to authorize the City Council of Charleston to elect an additional Recorder for the City of Charleston, and for other purposes.

Eighteen Hundred and Forty-three.

An Act prescribing the duties of certain Officers in the collection of supplies, the payment of salaries, and for other purposes.

An Act to authorize Office copies of Deeds in certain cases to be given in evidence.

An Act to amend the Law in relation to recording Mortgages, and to regulate the lien thereof.

An Act to amend the Law in relation to actions commenced by writ of Foreign Attachment.

An Act to increase the penalty for concealing or conveying away any slave accused of a capital crime.

An Act to inflict capital punishment on slaves and free persons of color who may commit a certain offence.

An Act to alter and amend the Patrol Law.

An Act supplementary to an Act entitled "An Act to give the Commissioners of the Poor for the several Districts and Parishes in this State power to purchase lands and build Poor Houses thereon, for the support and maintenance of the Poor of said Districts and Parishes," passed on the 16th day of December, 1824.

An Act to provide against the suspension of Specie payments by the Banks of this State.

An Act regulating Hawkers and Pedlars.

An Act to establish the Office of Assayer.

An Act to provide compensation for the owners of slaves executed.

Section 15 of an Act to establish certain Roads, Bridges and Ferries.

Eighteen Hundred and Forty-four.

An Act to amend the Attachment Laws of this State.

An Act to provide for the punishment of persons disturbing the Peace of this State in relation to Slaves and Free Persons of Color.

An Act to amend an Act entitled "An Act more effectually to prevent Free Negroes and other persons of Color from entering into this State, and for other purposes," passed the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five.

An Act to amend an Act entitled "An Act to amend the Laws in relation to Slaves and Free Persons of Color," passed on the seventeenth day of December, one thousand eight hundred and thirty-four.

An Act to make further provision for the security of Public Moneys under the control of the different Boards of Commissioners of the State.

An Act to increase the compensation of Grand and Petit Jurors.

An Act to declare the meaning of the Act prescribing the mode of electing Clerks, Sheriffs and Ordinaries, passed on the twenty-first day of December, Anno Domini one thousand eight hundred and thirty-nine.

An Act for the more effectual punishment of the official misconduct of Sheriffs.

An Act to alter the time of holding the Terms of the City Court of Charleston, and for other purposes.

An Act to exempt the Pilots of the Bar and Harbor of Charleston from Jury duty.

Eighteen Hundred and Forty-five.

An Act to repeal the Law of one thousand eight hundred and nineteen concerning vacant lands within ten miles of the Public Works.

An Act to abolish the punishment of Death in cases of Forgery and Counterfeiting.

An Act to amend the seventh Section of an Act entitled "An Act to amend and explain the Militia Laws of this State," passed on the nineteenth day of December, A. D. one thousand eight hundred and thirty-nine.

An Act to establish the office, prescribe the duties and fix the salary of State Reporter.

An Act to restore the Law in relation to the pay of Jurors.

An Act to provide for the more effectual collection of Taxes from Free Persons of Color.

An Act to authorize persons practicing Medicine under the Botanic or Thompsonian system to receive compensation for their services.

Section 23 of an Act to establish certain Roads, Bridges and Ferries.

Eighteen Hundred and Forty-six.

An Act to alter and amend so much of the "Act to regulate the Of-

fice of Comptroller General," ratified on the 17th December, 1834, as relates to contingent accounts.

An Act to alter and amend the Law concerning the custody and care of derelict estates by the Ordinary.

An Act to increase the jurisdiction of the Ordinary in the appointment of Guardians.

An Act to amend the law in relation to Sheriffs.

An Act to diminish the number of Magistrates.

An Act to amend the law in relation to Magistrates and Constables.

An Act to extend the jurisdiction of Magistrates in the town of Hamburg in cases of foreign attachment.

An Act prescribing the mode of electing Tax Collector.

An Act to alter and amend the law in relation to the election of Major General and Brigadier General, of the militia of this State.

An Act to extend the duration of an Act authorizing the formation of limited partnerships.

An Act concerning the State Roads.

An Act to convey to the United States certain lands on Sullivan's Island, James Island and Shute's Folly Island.

An Act to authorize a reduction of the toll on single horse carts on the State Road.

An Act to abolish the allowance on tare of bales of cotton.

An Act to prevent the sale of lottery tickets within this State.

Eighteen Hundred and Forty-seven.

An Act to alter the law in relation to Magistrates, Executions, and the duties of Sheriffs as to Executions in their offices.

An Act to amend the law in relation to the Education of the Deaf and Dumb.

An Act to alter the law in relation to Bastardy.

An Act to repeal the seventh Section of an Act entitled "An Act to reduce all Acts and clauses of Acts in relation to the Militia of this State to one Act," and to alter and amend the same.

An Act to amend the Laws prohibiting the entrance of Slaves into this State.

An Act to authorize the United States to purchase a sufficient quantity of Land in this State, for the erection of a Light House.

Section 4 of an Act relating to the Survey of the Coast of South Carolina, under the authority of the United States.

An Act to punish and prevent the stealing of Oysters.

An Act to define the terms upon which Manufacturing Companies shall hereafter be incorporated.

Eighteen Hundred and Forty-eight.

An Act to abolish the Office of Superintendent of Public Works, and for other purposes.

An Act to amend an Act, entitled "An Act more effectually to prevent Free Negroes and other persons of Color from entering into this

State, and for other purposes," passed the nineteenth day of December, A. D. 1835.

An Act to establish the Allowance of Days of Grace upon Bills of Exchange at sight.

An Act to authorize the United States to purchase a sufficient quantity of Land in this State, for the erection of a Custom House, and for other purposes.

An Act to provide for the Admission of Persons of Color into the Lunatic Asylum.

An Act to amend the Law in relation to the Education of the Deaf, Dumb and Blind Children of this State.

Eighteen Hundred and Forty-nine.

An Act to amend the Law with regard to the Rights of Sureties.

An Act to alter and amend the License Laws of this State.

An Act to apportion the Representation of this State.

An Act to alter the Law in relation to Slaves hiring their own Time, and for other purposes.

An Act to amend the Law in relation to the Lien of Judgments.

An Act to amend the Law concerning the publication of Sheriff's Sales for Pickens District.

Eighteen Hundred and Fifty.

Section 11 of an Act to provide for the Inspection of Flour.

An Act to Incorporate certain Societies and Companies, and to revive and amend certain Charters heretofore granted.

An Act to amend an Act, passed on the eighteenth day of December, one thousand eight hundred and forty, entitled "An Act to ascertain and define the powers, duties and liabilities of Masters, Commissioners and Registers in Equity, and to provide for the organization and regulation of their respective offices.

An Act to provide for keeping open the offices of Clerks of the Common Pleas and General Sessions in certain cases.

An Act to require the Clerks of the Courts of Common Pleas and General Sessions to index the Journals of the Common Pleas and General Sessions.

An Act to prohibit betting on Elections.

Eighteen Hundred and Fifty-one.

An Act to amend an Act entitled "An Act for the abolition of the rights of primogeniture, and for giving an equitable distribution of the Real Estates of Intestates," and for other purposes therein mentioned.

An Act to alter and amend the law in relation to the operation of Benefit of Clergy.

An Act to establish certain Roads, Bridges and Ferries, and to amend the law respecting Commissioners of Roads, in certain particulars.

An Act to increase the amount of property exempt from levy and sale.

An Act to punish placing obstructions on Rail Road Tracks, and for other purposes.

An Act to alter and amend the 11th Section of an Act entitled An Act to incorporate certain Societies and Companies, and to revive and amend certain Charters heretofore granted, passed on the 20th day of December, in the year of our Lord one thousand eight hundred and fifty.

An Act to abolish Brigade Encampments.

Section 20 of an Act to Incorporate certain Societies and Companies, and to renew and amend certain Charters heretofore granted.

An Act to provide by Law, for the compensation of Physicians for *post mortem* examinations.

Eighteen Hundred and Fifty-two.

An Act to amend an Act entitled "An Act to amend the law in relation to harboring deserted seamen."

An Act to repeal all Acts and parts of Acts authorizing Ordinaries to take possession of, and direct derelict Estates.

Sections 16, 23 and 24 of an Act to establish certain Roads, Bridges and Ferries, and to amend the law respecting Commissioners of Roads in certain particulars.

An Act to alter and amend the law in relation to the education of the Deaf and Dumb of this State.

An Act to relieve Plank Road Companies from the necessity of making returns, unless specially called for by the Legislature.

An Act to amend an Act entitled "An Act to provide for the inspection of Flour."

An Act in relation to the execution of slaves and free persons of color.

Eighteen Hundred and Fifty-three.

An Act to provide for the measuring of Timber in the City of Charleston, and to create the office of Inspector and Surveyor thereof.

An Act to cede to the United States certain parcels of land as sites for Light-Houses and Beacons.

An Act to prohibit the collection of demands against Students of the Colleges and Institutions of Education in this State.

An Act to declare and amend the law in relation to Words of Limitation in Wills and Deeds.

An Act to amend the law in relation to Weights and Measures.

An Act for the establishment of a General System of Registration of Births, Marriages and Deaths in the State of South Carolina.

An Act in relation to the Trustees of the South Carolina College.

An Act to declare a certain description of streams navigable, and for other purposes.

Eighteen Hundred and Fifty-four.

An Act to authorize the United States to purchase certain parcels of land in this State for the erection of Light-Houses and Beacon Lights.

An Act to amend an Act entitled "An Act to provide for the inspection of flour in certain particulars."

An Act to extend to Judges at Chambers the power of appointing Commissioners to value lands required for Railroads.

An Act to classify the lands in the Catawba Indian boundary, situate in York and Lancaster Districts, and to tax them as other lands in said Districts, and for other purposes.

An Act to provide for the better administration of justice in the City Court of Charleston.

An Act to authorize and empower the Commissioners of the Orphan House of Charleston to select the number of youths therein mentioned from those educated and maintained on the bounty of that institution, who shall be allowed to complete their education at the Military Schools established by this State.

Eighteen Hundred and Fifty-five.

An Act in relation to kidnapping seamen.

An Act to alter the law in relation to the duties of Ordinaries in taking administration bonds.

An Act to alter and amend the charters of the joint stock banks of this State.

An Act to authorize the erection of gates upon all such roads as are not public highways.

Section 2 of an Act to lease the State Road over the Saluda Mountains, to M. D. Dickey and Oliver Barrett.

An Act to provide for a uniform system of measuring ranging timber in this State.

Section 30 of an Act to establish certain Roads, Bridges and Ferries

Eighteen Hundred and Fifty-six.

An Act to alter and amend the Judiciary System of the State.

Sections 15 and 16 of an Act to establish certain Roads, Bridges and Ferries.

An Act defining the power of Commissioners of Cuts and Water Courses in this State.

An Act to provide for the transfer of papers of the Office of Superintendent of Public Works to the Secretary of State's Office.

An Act to authorize the collection of interest on judgments.

An Act to alter and amend the fourth Section of an Act entitled "An Act concerning the Office and Duties of Ordinary," ratified the twenty-first day of December, in the year of our Lord one thousand eight hundred and thirty-nine.

An Act to require Sheriffs to give notice of money collected by them.

An Act to prevent the circulation of printed or engraved paper resembling bank notes.

An Act to amend an Act entitled "An Act to provide for the inspection of flour," and to repeal an Act amending the same.

An Act to authorize certified copies of entries from the books of a Sheriff to be given in evidence.

An Act to regulate the agencies of insurance companies not incorporated in the State of South Carolina.

An Act to promote the draining and improvement of inland swamps.

An Act to amend an Act entitled "An Act prescribing the mode of electing Tax Collector," passed on the eighteenth day of December, in the year of our Lord one thousand eight hundred and forty-six.

An Act to amend an Act entitled "An Act more effectually to prevent free negroes and other persons of color from entering into this State, and for other purposes," passed the 19th day of December, in the year of our Lord one thousand eight hundred and thirty-five.

An Act to amend an Act entitled "An Act to provide for the measuring of timber in the City of Charleston, and to create the office of Inspector and Surveyor thereof," passed the twentieth day of December, one thousand eight hundred and fifty-three.

An Act to provide for the Inspection of Naval Stores.

An Act to confer upon Alien Widows the right to take and hold real estate.

An Act to authorize the United States to purchase certain parcels of land in this State for the erection of light houses and beacons, and to cede the jurisdiction of this State over the same, and for other purposes.

An Act to amend "An Act for the better ordering and governing negroes and other slaves in this Province," passed the tenth day of May, seventeen hundred and forty.

Eighteen Hundred and Fifty-seven.

An Act to provide for the establishment of a Normal School in this State.

An Act to make Malicious Trespasses indictable.

An Act to amend an Act entitled "An Act to alter the law in relation to the action of Trover, and for other purposes.

An Act to provide for the further maintenance of the peace of this State, in relation to duelling.

An Act to provide for the administration of Derelict Estates.

An Act to declare the tenure of lots on Sullivan's Island.

An Act to amend the law in relation to grants for Catawba Indian lands.

An Act to amend the law in relation to Trading with Slaves.

An Act to increase the penalty for Setting Fire to the Woods.

An Act to protect the owners of Neat Cattle.

An Act for the suspension of certain Sections of certain Acts, and for other purposes.

An Act to punish willful neglect or misconduct by Railroad Conductors and Engineers.

An Act for the relief of prosecutors and witnesses in criminal cases not capital.

An Act to regulate appeals in cases arising under the ordinances of the City Council of Charleston.

An Act to alter and amend the law in relation to the Qualification of Jurors.

An Act to exempt Managers of Election from the performance of ordinary Militia duty.

An Act to repeal an Act entitled "An Act to increase the amount of Property exempt from levy and sale," ratified the sixteenth day of December, in the year of our Lord one thousand eight hundred and fifty-one.

Eighteen Hundred and Fifty-eight.

Sections 5 and 6 of an Act to regulate the mode of electing Directors of the Bank of the State of South Carolina, and for other purposes.

An Act to alter the Law in relation to Last Wills and Testaments, and for other purposes.

An Act providing for the punishment of Privily Stealing from the person.

An Act to alter and amend the Law in relation to the Registration of Births, Marriages and Deaths.

An Act to secure the Purity of Elections.

An Act to alter and amend the 37th Section of an Act entitled "An Act for the better ordering and governing Negroes and other Slaves in this Province," passed the tenth day of May, in the year of our Lord one thousand seven hundred and forty.

An Act to repeal an Act entitled "An Act to define the terms upon which the State will aid in the construction of Turnpike Roads," ratified on the nineteenth day of December, in the year of our Lord one thousand eight hundred and thirty-eight.

An Act to increase the compensation of Grand and Petit Jurors.

An Act to secure to Mechanics, Tradesmen and Material Men, payment for Work done and Materials and Supplies furnished to Ships and Vessels owned in this State.

An Act to amend "An Act concerning the Lunatic Asylum," passed in the year of our Lord one thousand eight hundred and thirty-one.

An Act to increase the compensation of Owners of Slaves Executed.

An Act to punish Assaults committed with Concealed Weapons.

An Act to authorize the City Council of Charleston to appoint inspectors of Naval Stores.

Eighteen Hundred and Fifty-nine.

An Act to alter and amend the Road Law of this State.

An Act to apportion the representation of this State.

An Act to establish a separate Court of Appeals.

An Act to provide for the Election of an additional Law Judge.

An Act to provide for the peace and security of this State.

An Act to require and regulate the granting of licenses to Itinerant Salesmen and Traveling Agents.

An Act to enlarge the powers of the Commissioners in Equity of this State, in certain respects.

An Act to regulate the amount of the penalty of the bonds of Tax Collectors.

An Act to authorize the several Boards of Commissioners of this State to fix the rate of Commissions to be charged by their respective Treasurers for receiving and paying out the public funds, and for other purposes.

An Act to amend the law in relation to Sheriffs.

An Act to amend the law in relation to homicide.

An Act to amend an Act entitled "An Act to alter and amend the law in relation to the qualification of Jurors," ratified on the twenty-first day of December, in the year of our Lord one thousand eight hundred and fifty-seven.

An Act to alter the law in relation to the commissions of Guardians, Executors and Administrators.

An Act to provide for compensation in damages to the families of persons killed by the fault of others.

An Act to make owners of dogs liable for sheep killed by them.

An Act to exempt Teachers and Students from the performance of Road Duty.

An Act to provide for the appointment of additional Magistrates for Lexington and Georgetown Districts.

An Act to punish attempts to poison.

An Act to alter the law as to legal proceedings against Railroad Companies.

An Act to alter and amend the ninth Section of an Act entitled "An Act to authorize the formation of limited partnerships."

Eighteen Hundred and Sixty.

An Act to prescribe the form of Permits for Slaves to be absent from the owner's premises.

An Act to repeal the seventh Section of an Act entitled "An Act for the more effectual relief of Insolvent Debtors, and for other purposes," passed the seventh day of April, one thousand seven hundred and fifty-nine.

An Act to amend the Law in relation to House Burning.

An Act to provide for the proper administration of the Admiralty and Maritime Law in the State of South Carolina, and for other purposes.

An Act to provide for compensation to owners of property taken for public purposes.

An Act to alter and amend the law in relation to the method of counting votes in all elections by the people.

An Act to repeal certain Acts in relation to the registration of births, marriages and deaths in the State of South Carolina.

An Act to amend an Act entitled "An Act to enlarge and extend the powers of the Governor, and of the City Council of Charleston, over Quarantine, and for other purposes," passed on the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two.

An Act to alter and amend an Act entitled "An Act to make malicious trespasses indictable."

An Act to increase the powers of Commissioners of Public Buildings.

An Act to repeal an Act entitled "An Act to require and regulate the granting of Licenses to Itinerant Salesmen and Traveling Agents."

Eighteen Hundred and Sixty-one.

An Act in reference to the Suspension of Specie Payments by the Banks of this State, and for other purposes.

An Act to grant exemption to certain Free Persons of Color who shall return to this State, from Penalties now provided by Law.

An Act to regulate the Reports of the Railroad Companies, and for other purposes.

An Act to encourage the Manufacture of Salt within this State.

An Act to require the Circuit Judges to send, with their Reports to the Appeal Court, the Notes of Evidence taken on Trial.

An Act to alter the time of holding election for Ordinary of Anderson District.

An Act to amend the Law as to the Election of Officers of the South Carolina College.

Eighteen Hundred and Sixty-two.

An Act to incorporate with uniform rights, powers, and privileges, Protestant Episcopal Congregations in South Carolina.

An Act to increase the fees of Sheriffs for dieting persons confined in jail.

Eighteen Hundred and Sixty-three.

An Act in relation to the Southern Express Company, and to provide additional Remedies for the Defaults of Common Carriers.

Sections 3 and 4 of an Act to amend an Act entitled "An Act to increase the Fees of Sheriffs for dieting persons confined in Jail."

An Act to alter the Law in relation to the Election of District Officers.

An Act to combine the Offices of the Clerk of the Court of Common Pleas and General Sessions and Register of Mesne Conveyances, for Georgetown District.

Eighteen Hundred and Sixty-four.

Section 12 of an Act to incorporate certain religious and charitable societies, and to renew and amend the charters of certain towns, villages and other societies, heretofore granted, and for other purposes.

An Act to provide for the appointment of Commissioners of the Poor in certain cases.

An Act to repeal so much of the Act to establish a separate Court of Appeals as requires the Judges to be chosen from among certain persons therein described.

An Act to define the rights and liabilities of railroad companies and other common carriers.

Eighteen Hundred and Sixty-five.

An Act to amend the Criminal Law.

An Act to establish District Courts.

An Act to establish and regulate the domestic relations of persons of color, and to amend the law in relation to paupers and vagrancy.

An Act to amend the License Law.

An Act to authorize farmers and planters to give their books in evidence in certain cases.

An Act to establish regulations for the purpose of preventing the spread of Asiatic cholera in this State.

An Act to amend an Act entitled "An Act to alter the law in relation to last wills and testaments, and for other purposes," ratified December twenty-one, one thousand eight hundred and fifty-eight.

An Act to establish the University of South Carolina.

An Act to amend an Act entitled "An Act in relation to the Southern Express Company, and to provide additional remedies for the default of common carriers."

An Act to provide for the re-organization of the Militia.

An Act to organize the Executive Department of this State.

An Act to regulate the distillation of spirituous liquors.

Eighteen Hundred and Sixty-six.

An Act to make Parties, Plaintiffs and Defendants, in all cases, competent to give testimony in such cases, in like manner as other Witnesses.

An Act to secure Advances for Agricultural Purposes.

An Act to amend the Law in relation to the Bonds required of Public Officers.

An Act to amend an Act entitled "An Act to establish District Courts."

An Act to Alter and Fix the Times for holding the Courts of Common Pleas in this State.

An Act to declare the Rights of Persons lately known as Slaves and as Free Persons of Color.

An Act to Regulate the Fees of Sheriffs for Dieting Persons confined in Jail, and to provide for the more expeditious payment thereof.

An Act to alter the Act entitled "An Act to amend the Criminal Law."

An Act to provide an expeditious mode of ejecting trespassers.

An Act for the encouragement and protection of European Immigration, and for the appointment of a Commissioner and Agents, and for other purposes therein expressed.

An Act to amend the Act establishing the University of South Carolina.

An Act to alter the law on the subject of fences.

An Act to amend the law in relation to tenancies.

An Act to regulate elections for Representatives in Congress.

An Act to provide for docketing Constitutional cases in the Court of Errors.

An Act to alter the law in relation to the publication of Legal Notices.

An Act to shorten and regulate the publication of notices to absent defendants in Equity.

An Act to make certified copies evidence.

An Act to extend the duration of an Act entitled an Act to extend the duration of an Act authorizing the formation of limited partnerships.

An Act to establish an additional class of Flour, to be called Family Flour.

An Act to authorize and regulate the creation of private corporations within this State.

An Act to provide for the registration of Trust Deeds of personal property.

An Act to repeal the Usury Laws of this State.

An Act to alter and amend an Act entitled "An Act to alter and amend the law in relation to the method of counting votes in all elections by the people."

An Act respecting Sureties on bonds of Public officers.

An Act for the better protection of Seamen and Immigrants in the port and harbor of Charleston.

An Act to provide for the admission in evidence of wills made in the execution of a power.

An Act to regulate the sittings of the Court of Appeals.

An Act to amend an Act entitled "An Act to amend an Act entitled 'An Act to establish District Courts.'"

Eighteen Hundred and Sixty-eight.

An Act to organize the Circuit Courts.

An Act to provide a Private Secretary for the Governor of the State.

An Act to regulate appeals and writs of error to the Supreme Court.

An Act to provide for the recording of certificates of sale issued to purchasers of lands sold under direction and authority of the United States Direct Tax Commissioners in Beaufort County, South Carolina.

An Act to establish a State Police.

An Act to regulate the manner of keeping and disbursing funds by certain officers.

An Act to fix the amount of the official bond of certain County officers.

An Act to determine and perpetuate the homestead.

An Act to provide for the temporary organization of the Educational Department of the State.

An Act providing for the assessment and taxation of property.

An Act to provide transportation for convicts discharged from the State Penitentiary.

Section 2 of an Act to extend the time for officers to qualify.

An Act to alter and amend an Act entitled "An Act to organize Circuit Courts."

An Act to organize the Supreme Court.

An Act to define the jurisdiction and to regulate the practice of Probate Courts.

An Act to empower Circuit Judges to change the venue for the trial of actions, civil and criminal.

An Act to suppress insurrection and rebellion.

An Act to fix the salary and define the duties of the Attorney General of the State.

An Act to declare the manner by which the lands, or the right of way over the lands, of persons or corporations may be taken for the construction and uses of railways and other works of internal improvement.

An Act to provide for the government of the South Carolina Penitentiary.

An Act to regulate the admission of persons to practice as attorneys, solicitors and counsellors in the Courts of the State.

An Act to determine the manner of disposing of lands purchased by the State for taxes.

An Act to provide for the temporary appointment of Magistrates, and to define their powers and duties.

An Act to supply temporary vacancies in the office of the Governor.

An Act to regulate attachments.

An Act to punish discrimination in the treatment of prisoners by Jailers and Sheriffs.

An Act to amend an Act entitled "An Act to provide for the inspection of flour."

An Act to license certain persons, herein named, to act as Pilots, and to provide the terms upon which they shall hereafter be licensed.

An Act to provide for the formation and proceedings of the Colleges of Electors.

An Act to establish quarantine at Georgetown, Charleston and Hilton Head.

An Act to establish a Bureau of Agricultural Statistics for the encouragement of industrial enterprises, and to invite capital to South Carolina, for the development of the resources of the State.

An Act to regulate the manner of drawing Juries.

An Act to regulate arrests and bail in civil actions.

An Act to define the jurisdiction and duties of County Commissioners.

An Act to fix the salary and regulate the pay of certain officers.

An Act to regulate the practice of the Circuit Courts in certain cases.

An Act to organize townships, and to define their powers and privileges.

Eighteen Hundred and Sixty-eight.

An Act accepting the donation of lands to the State of South Carolina for the endowment of Agricultural Colleges.

An Act to punish Sheriffs and other officers for violating the homestead.

An Act to establish a State Orphan Asylum.

An Act to alter and amend the Criminal Law.

An Act to amend an Act entitled "An Act to provide for the temporary organization of the Educational Department of the State.

An Act to enforce the provisions of the Civil Rights Bill of the United States Congress.

An Act to regulate the practice of medicine in this State.

An Act to amend an Act entitled "An Act to organize the Circuit Courts."

An Act further to amend the Acts incorporating the University of South Carolina.

An Act to regulate the agencies of insurance companies not incorporated in the State of State of South Carolina.

An Act to amend an Act entitled "An Act to regulate the manner of Keeping and Disburing Funds by certain officers.

An Act to prescribe certain rules to be observed in the government of Ferries and Bridges privileged to charge tolls.

An Act to amend an Act entitled "An Act to establish Quarantine at Georgetown, Charleston and Hilton Head."

An Act to establish the lien of Magistrates' Executions.

An Act to empower the Judges of the Circuit Court to grant relief in case of erroneous judgments obtained during the existence of the Provisional Government of South Carolina.

An Act to organize and govern the Militia of the State of South Carolina.

An Act to provide a lien on buildings and lands to parties furnishing labor and materials thereon.

Sections 1 and 2 of an Act to establish a Lazaretto or Quarantine Hospital in the harbor of Charleston.

An Act to protect laborers and persons working under contract on shares of crops.

An Act to provide for the enumeration of the inhabitants of this State.

An Act to amend an Act entitled "An Act to regulate attachments."

An Act to repeal Section eight of an Act entitled "An Act to amend the Criminal Law."

An Act to amend an Act entitled "An Act to regulate the manner of drawing jurors."

An Act to amend an Act entitled "An Act to define the jurisdiction and regulate the practice of Probate Courts."

An Act to define the duties of State Reporter, and to provide for the publication of the Supreme Court Reports.

An Act to amend an Act entitled "An Act to fix the salary and regulate the pay of certain officers," ratified September 26, 1868.

An Act to prevent and punish duelling.

An Act to incorporate the various Boards of Trustees of the Methodist Episcopal Church in South Carolina.

An Act to regulate the manner of granting a final dismissal to executors, administrators, trustees, guardians or committees.

An Act to amend an Act entitled "An Act to define the jurisdiction and duties of County Commissioners."

An Act to provide for the appointment of a Land Commissioner, and to define his powers and duties.

An Act to determine the value of contracts made in Confederate States notes or their equivalent.

Joint Resolution to authorize and direct the Comptroller General of the State to provide and furnish offices for officers of the Executive Department.

Eighteen Hundred and Sixty-nine.

An Act to regulate the formation of corporations.

An Act to determine the manner of collecting taxes past due, assessed under the late Provisional and Military Government of South Carolina.

An Act to amend an Act entitled "An Act providing for the assessment and taxation of property."

An Act to amend an Act entitled "An Act to amend the law in relation to recording mortgages, and to regulate the lien thereof."

An Act to provide for the payment of the interest of the bonds and stocks of this State in coin.

An Act to better protect holders of insurance policies in this State.

An Act to prevent and punish bribery and corruption.

An Act to amend an Act entitled "An Act to authorize the Governor to appoint a Physician to attend on the Jail in Charleston, and the Magazine Guard in St. Phillip's Parish, and for other purposes therein mentioned."

An Act consenting to the sale of certain lands to the United States, and ceding jurisdiction thereof.

An Act to authorize Administrators, Executors, and other fiduciaries, to sell certain evidences of indebtedness at public sale, and to compromise in certain cases.

An Act to repeal an Act entitled "An Act to organize townships, and to define their powers and privileges."

An Act to protect the rights of persons lawfully in possession of lands and tenements.

An Act to incorporate the African Methodist Episcopal Church, in this State.

An Act to alter and amend an Act entitled "An Act concerning the office, duties and liabilities of Coroners."

An Act to designate the officers by whom sales ordered by the Courts of Common Pleas and Judges thereof, and the Courts of Probate, shall be made.

An Act to carry into effect the provisions of the Constitution in relation to the rights of married women.

An Act to grant and give the consent of the General Assembly of this State, to the conveyance to the United States of the lot of land situate on Richardson and Laurel Streets, in the City of Columbia, hereinafter described, for the purpose of a Post Office and Court House, and for other purposes, and to cede to the United States jurisdiction therein.

An Act to authorize the Governor to remove County Auditors, Treasurers, and other officers by him appointed.

An Act to provide for the appointment of certain officers therein named.

An Act to regulate the rights and powers of Railroad Companies.

An Act to secure equal civil rights, and to provide for the enjoyment of all remedies in law by all persons, regardless of race or color.

An Act to provide for a General Election of County Officers.

An Act for the better protection of migratory fish.

An Act to amend an Act entitled "An Act to empower Circuit Judges to change the venue for the Trial of Actions, both civil and criminal."

An Act to establish and maintain a system of Free Common Schools for the State of South Carolina.

An Act to establish the weight of a barrel of crude turpentine.

An Act to regulate the publication of all legal and public notices.

An Act to alter and amend an Act entitled "An Act to provide for the assessment and taxation of property."

An Act to provide for the care of the poor.

An Act to limit the cost of Criminal Prosecution.

An Act to provide for the formation of Religious, Charitable and Educational Associations.

An Act to provide for the filling of Vacancies in County offices.

An Act to provide for the appointment of Trial Justices.

An Act to amend an Act entitled "An Act to fix the salary and regulate the pay of certain officers," ratified December 26, 1868.

An Act to further determine and perpetuate the Homestead.

An Act prohibiting the peddling of Ardent Spirits throughout the State.

An Act relative to the power of the City Council of Charleston to impose punishments for the violation of City Ordinances.

An Act to enforce the provisions of the Civil Rights Bill of the United States Congress, and to secure to the people the benefits of a Republican Government in this State.

An Act to provide for a sinking fund, and the management of the same.

An Act providing for the general elections, and the manner of conducting the same.

An Act to provide for the construction and the keeping in repair of public highways and roads.

An Act to regulate the fees of Probate Judges, Clerks of Courts, Trial Justices and Magistrates, and other officers herein mentioned.

An Act to define the criminal jurisdiction of Trial Justices.

An Act to authorize Trustees to invest funds in the bonds of the State of South Carolina.

An Act to enforce a uniform system of assessment and taxation by municipal bodies.

An Act to amend an Act entitled "An Act to organize the Circuit Courts."

An Act to revise, simplify and abridge the rules, practice, pleadings and forms of Courts in this State.

Joint Resolution authorizing the appointment of Fish Commissioners, and defining the duties thereof.

Eighteen Hundred and Seventy.

An Act to provide a salary for the Office of Lieutenant Governor of the State.

An Act to provide for the publication of the Acts, Reports, Resolutions, Journals, and other papers of the General Assembly.

An Act supplementary to an Act entitled "An Act to authorize Administrators, Executors, and other Fiduciaries, to sell certain evidences of indebtedness at public sale, and compromise in certain cases."

An Act to regulate the right of traverse.

An Act ceding the jurisdiction of the State of South Carolina to the United States of America over such lands as may be acquired for public purposes by the said United States of America.

An Act to regulate the appointment, jurisdiction and duties of Notaries Public.

An Act to repeal so much of the Act of 1839 as prohibits the Clerks of the Courts of the State from acting as Attorneys or Solicitors in the Courts of this State.

An Act to amend an Act entitled "An Act to establish a State Orphan Asylum."

An Act to protect the rights of parents, and to prevent the procuring and carrying from the State persons under the age of twenty-one years.

An Act to authorize Circuit Judges to hold Courts in other Circuits than their own.

An Act to require the State Treasurer to pay County Treasurers the apportionment of the State School Fund for their respective Counties, and for other purposes.

An Act to provide for the protection of persons, property and the public peace.

An Act to amend an Act to establish and maintain a system of Free Common Schools for the State of South Carolina.

An Act to regulate the call of the Docket of the Supreme Court.

An Act to enable judgment debtors to sell their real and personal property, and to confirm sales already made, in conformity with conditions therein specified.

An Act to require the County Commissioners to report to the General Assembly.

An Act to provide for the government of the South Carolina Institution for the Education of the Deaf, Dumb and Blind.

An Act to further amend an Act entitled "An Act providing for the assessment and taxation of property."

An Act to amend an Act entitled "An Act providing for the assessment and taxation of property," passed September 15, 1868, and all Acts amendatory thereto.

An Act to regulate the disposition of fines and penalties imposed and collected in criminal cases by the Circuit Courts of General Sessions and Trial Justices.

An Act to amend an Act entitled "An Act to regulate the agencies of Insurance Companies not incorporated in the State of South Carolina."

An Act to amend an Act entitled "An Act to revise, simplify and abridge the Rules, Practice, Pleadings and Forms of the Courts in this State."

An Act to amend an Act entitled "An Act for the better protection of migratory fish."

An Act to amend an Act entitled "An Act to organize the Supreme Court."

An Act to amend an Act entitled "An Act to define the jurisdiction and duties of the County Commissioners."

An Act to amend an Act entitled "An Act to define the criminal jurisdiction of Trial Justices," approved March 1, 1870.

An Act to provide for the construction and repair of public highways.

An Act to empower the State to maintain beneficiaries in the Lunatic Asylum, instead of Counties.

An Act to amend an Act entitled "An Act to regulate the Formation of Corporations," approved December 10, 1869.

An Act to amend Section 22 of the Code of Procedure.

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ERRATA.

In Section 4, page 16, read "buildings of the University of South Carolina," instead of "College buildings."

Add to the side note in same Section "1865, XIII, 313, § 1."

In Section 2, page 35, second line, read "the office of County Commissioners," instead of "any of the offices."

Add to the side note to same Section "See Chaps. XXI, § 14; XXII, § 24; XXXVIII, § 2."

In Section 3, page 40, sixth line, read "County Auditors," instead of "Assessors."

Add to the side note to same Section "1871, XIV, 623, § 1."

In Section 2, page 96, side note, add after "Ib., § 2," "1868, XIV, 135, § 1."

In Section 62, page 115, second line, insert the word "on" between "XIII" and "or."

Add as reference to side note to Section 2, page 114, "See Chap. XXII, § 25."

In Section 8, page 145, as reference to side note, read "Ib., 39, § 4."

Add to side note to Section 23, page 168, "1827, VI, 319, § 1."

In side note to Section 24, same page, read "1839, XI," instead of "Ib."

In second head note, page 173, read "Charleston County," instead of "Charleston and Georgetown Counties."

In Section 2, same page, read "County of Charleston," instead of "Counties of Charleston and Georgetown."

In side note to same Section read "Charleston County,' instead of "Charleston and Georgetown Counties," and add, as a reference, "1863, XIII, 229, § 1."

In Section 3, first and second lines, page 173, read "County of Charleston," instead of "Counties of Charleston and Georgetown."

In the tenth and eleventh lines of same Section strike out the words "and the Register for Georgetown in the court house for that County."

In head note 38, page 179, strike out the words "allow bail," after the word "May;" also, the words "&c., in certain cases," at the end of the head note.

In side note to Section 19, page 182, read "§§ 1 and 2," instead of "§ 1."

Add as a reference to the side note to Section 28, page 185, "1 S. C. R., 256."

Add, in the reference to the side note to Section 35, page 186, after "1839," the numerals "XI."

Add to the reference to the side note to Section 36, same page, "1794, V, 249, § 3."

Add to the reference to the side note to Section 37, page 187, "1839, XI, 29, § 19."

Section 38, same page, should read: "Any Trial Justice may take releases of inheritance and renunciations of dower," instead of: "Any Trial Justice is authorized and required to give, on proper affidavit, an order for reasonable bail, in any action wherein bail may be proper, but not, of course, at the time of commencing, or during the pendency thereof, in any Court of Common Pleas, in the County where such Trial Justice resides. He may also take releases of inheritance and renunciations of dower," the Code of Procedure, Part 2, Title 7, Chapter 1, having superseded the former laws concerning bail in civil actions.

The side note to the same Section should read: "May take renunciations of dower and releases of inheritance."

In Section 5, ¶ 3, page 191, side note, read "3 Rich., 62," instead of "3 Rich., 02."

In Section 12, page 192, side note, read "1846, XI, 360, § 1," instead of "1846, XI, 360, § 7."

Add as a reference to side note to Section 4, page 244, "1871, XIV, 666, § 1."

In the last line of Section 6, same page, read, "recovered by indictment or information in any Court of competent jurisdiction," instead of "recovered as hereinafter directed."

To the side note of same Section, add, "Amended by Commissioners."

In Section 8, page 245, third line, strike out the word "that" between the words "and" and "the."

To Section 3, page 275, side note, add the reference, "1 S. C. R., 461."

In side note to Section 8, on page 293, read "1 McM., 9," instead of "7 McM., 9."

On page 327, strike out from head note 40, the words, "Legislature may dissolve corporations."

In Section 40, page 333, strike out the words, "and the Legislature may amend or repeal the foregoing provisions so as to affect existing corporations, and may, by special Acts, annul or dissolve any such corporation," the same being repealed by Section 1, page 673, Act of 1871.

To Section 15, page 379, side note, read "2 Bail., 151" instead of "1 Bail., 151."

In Section 8, page 406, second line, insert "of such marriage" between the words "issue" and "unless."

In Section 18, page 421, second line, read "18" for "17."

In Section 19, page 422, third line, read "18" for "19."

Add to side note to Section 4, page 432, "Code of Procedure, § 314."

In Section 6, page 452, second line, strike out the words, "*quo warranto.*"

In Section 9, page 457, at the end of the ninth line, insert a period (.) instead of a semi-colon (;). Begin the tenth line of same Section with a capital letter.

In the reference, in Section 6, page 462, side note, the number of the Section should be "34."

In Section 4, page 465, second line, read "plaintiff" for "plaintiffs."

In Section 9, page 468, sixteenth line, strike out the comma (,) after the word "traveling," and insert a comma (,) after the word "testify," at the end of the line.

On page 474, strike out, from the head notes, the words "*Special Juries*," and the Sections relating to them, and numbered "35," "36" and "37," and re-number the following Sections, so that they shall read, "35," "36," "37" and "38," instead of "38," "39," "40" and "41."

On page 480, strike out the whole of Sections "35," "36" and "37" relating to special juries, and the words "*Special Juries*," which precede them, the same having been repealed by § 45 of the Act of 1839, Vol. XI, p. 50.

On page 481, re-number Sections "38," "39," "40" and "41," so that they shall read, "Sections 35," "36," "37" and "38," respectively.

Add as a reference to side note to Section 2, page 492, "See Miller's" Compilation, p. 39, Rule No. 42."

The Title to Chapter CXX, page 503, should read, "Of Chattel Mortgages and Liens," instead of "Of Chattels, Mortgages and Liens," and the running heads of the pages 503 to 512, inclusive, should be read in the same manner.

In Section 20, page 515, second and third lines, read "Act," for "Code of Procedure."

In Section 596, page 335, third line, insert the word "or" between the words "instrument" and "sought."

In side note to Section 441, page 620, the last word should be "proved" instead of "moved."

Add to the head notes of Chapter CXXXVIII, on page 679, the following:

"9. Proceedings for the discharge of the prosecutor on his own recognizance in criminal cases not capital."

"10. Witnesses may be discharged in like manner," &c.

"11. Penalty for failure to appear."

"12. Clerk's costs."

On page 681, add the following Sections to Chapter CXXXVIII:

Proceedings for the discharge of the prosecutor on his own recognizance in criminal cases not capital.

1857, XII, 636, § 1.

"SEC. 9. Hereafter, when any prosecutor, resident in the judicial district where the prosecution is instituted, in criminal cases less than capital, shall have been committed to jail by reason of his or her inability to give surety, on his or her recognizance to prosecute, the Clerk of the Court of Common Pleas and General Sessions of such District shall have power to discharge such prosecutor on his or her own recognizance, upon being satisfied of his or her inability to give such surety."

Witnesses may be discharged in like manner.

Ib., § 2.

"SEC. 10. Whenever any witness in a criminal case less than capital, shall have been committed to jail by reason of the like inability to give surety on a recognizance to testify, the Clerk of the Court shall have the like power to discharge such witness on his or her own recognizance."

Penalty for failure to appear.

Ib., § 3.

"SEC. 11. Prosecutors or witnesses failing to appear under such recognizance shall be deemed guilty of a misdemeanor, and the Attorney

General and Solicitors are hereby authorized to order warrants to issue against such offenders, without affidavit or bond to prosecute."

Clerk's costs. Ib., § 4.

"SEC. 12. The Clerks of the Court shall be entitled to one dollar costs for each recognizance taken under the provisions of Sections 9 and 10 of this Chapter."